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1. Abbreviations

Constitution	The Constitution of the Republic of South Africa 180 of 1996
Council	Alfred Duma Local Council
ITB	Ingonyama Trust Board
ITB land	Land administered by the Ingonyama Trust Board
MFMA	Local Government: Municipal Finance Management Act 56 of 2003
MPRA	Local Government: Municipal Property Rates Act 6 of 2004
Multiple use properties	Properties used for multiple purposes as considered in s9(b) of MPRA
Municipality	The Alfred Duma Local Municipality
PBOs	Public Benefit Organisations
PSP	Public service purposes
Structures Act	Municipal Structures Act 117 of 1998
Systems Act	Municipal Systems Act 32 of 2000

2. Definitions

Any wording in this policy, if included in the definitions as listed in the Local Government Municipal Property Act, Act 6 of 2004, as amended will carry the same meaning unless stated otherwise hereunder:-

Business/Commercial, including Farms utilised for the purpose of Commercial and Business in relation to a property, means the use of a property for the activity of buying, selling or trading in commodities or services on an erf and includes any office, Industry, Warehousing or other accommodation on the same erf, the use of which is incidental to such activity, inclusive of a hotel or motel or Bed & Breakfast/guesthouse and eco-tourism but does not include the business of agriculture, farming, or any other business consisting of the cultivation of soils, the gathering in of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms, including businesses outside the old boundary of the previous Emnambithi/Ladysmith Municipality (Ladysmith, Ezakheni, Ezakheni Industrial Estate, Steadville, Colenso, Nkanyezi, Indaka and Van Reenen) and within the Alfred Duma Local Municipal demarcation.

Child means a person under the age of 18 years, who is also unemployed.

Child-headed household is a household where a child (blood relative of property owner) is responsible for the care of his / her siblings or incapacitated parents.

Developer means a Township Developer, who is the owner of a property for which subdivisions have been approved for transfer in terms of Act 6 of 2008, or other legislation.

Disabled means a person who qualifies to receive relief under the Social Services Act 59 of 1992, or who has been certified as disabled by a medical practitioner.

Agricultural includes a Smallholding for the purpose of Agricultural in relation to property means the use of a property for farming activities without derogating from section 9 but excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game and includes the business of agriculture, farming or any other business consisting of the cultivating of soils, the gathering in of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms, and/or land within a Game Reserve, reserved for future eco-tourism as defined in this policy.

Industrial, in relation to a property, means the use of a property for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts, including any office or other accommodation on the erf, the use of which is incidental to the use of the factory.

Market value of a property is the amount the property would have realised if sold on the date of valuation on the open market by a willing seller to a willing buyer. (See section 46 of MPRA).

Medically boarded is a person who, due to medical reasons, has retired prematurely.

Mining Property means a property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).

Municipal Properties means municipal property used by the Municipality for its own purpose in order to serve the public including vacant land or a public open space.

Owner,

- a) in relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- b) in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
- bA) in relation to a time sharing interest contemplated in the Property Time-sharing Control Act, 1983), means the management association contemplated in the regulations made in terms of section 12 of the Property Time-sharing Control Act, 1984;
- bB) in relation to a share block company, the share block company as defined in the Share Block Control Act, 1980 (Act No.59 of 1980);
- bC) in relation to buildings, other immovable structures and infrastructure referred to in section 17(1)(f), means the holder of the mining right or the mining permit; and
- c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property” means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicity controlled”,

provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:

- i) A trustee, in the case of a property in a trust excluding state trust land;
- ii) an executor or administrator, in the case of a property in a deceased estate;
- iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- v) a curator, in the case of a property in the estate of a person under curatorship;
- vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- viiA) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right;
- viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

PBO means an organisation using a property, in the ownership of such organisation, for any specific public benefit activity listed in Part 1 of the Ninth schedule to the Income Tax Act includes a private school which is registered with the relevant authorities as a public benefit organisation, with a Tax Clearance Certificate from SARS. (including place of public worship as defined in the MPRA 6 of 2014)

Pensioner means a person who is sixty (60) years and older.

Property means, a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;

- b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- d) public service infrastructure.

Public Service Infrastructure, means publicly controlled infrastructure of the following kinds:

- a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pump forming part of a water or sewer scheme serving the public;
- c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, part of a scheme for transporting such fuels;
- e) railway lines forming part of a national railway system;
- f) communication towers, masts exchanges or lines forming part of a communication system serving the public;
- g) runways, aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding these, which must be vacant for air navigation purposes;
- h) any other publicly controlled infrastructure as may be prescribed; or
- i) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (h).

Public Service Purposes, in relation to the use of a property, means property owned and used by an organ of state as –

- a) hospitals or clinics;
 - b) schools, pre-schools, early childhood development centres or further education and training colleges;
 - c) national and provincial libraries and archives;
 - d) police stations;
 - e) correctional facilities; or
 - f) courts of law,
- but excludes property contemplated in the definition of public service infrastructure;

Rateable Property, means property on which a municipality may in terms of section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of section 17;

Residential property, means a property having a suite of rooms, which forms a living unit that is used for human habitation purposes or a multiple number of such units including Farm Residential Properties, Smallholding Residential Properties and land on which no immovable improvements have been erected which is situated outside the old boundaries of the previous Emnambithi/Ladysmith Municipality (Ladysmith, Ezakheni, Ezakheni Industrial Estate, Steadville, Colenso, Nkanyezi, Indaka and Van Reenen) and within the Alfred Duma Local Municipal demarcation and/or small holdings used exclusively for this purpose. This property must be included in the valuation roll in terms of the MPRA Section 48 (2)(b), in respect of which the primary use or permitted use is for residential purposes without derogating from Section 9 (Amended by s1 of Act 29 of 2014).

Vacant land means property on which no immovable improvements have been constructed, or any immovable improvements which are not yet occupied since commencement of construction, which includes land inside the boundaries of the Alfred Duma Local Municipality.

3. Introduction

The Municipality is empowered to levy rates on properties within its jurisdiction, and is obligated to adopt and implement a policy on such levying of rates on rateable property. This policy is aimed at enhancing certainty, uniformity, and simplicity within the Municipal community. Cognisance will be taken of the burden of rates on the poor, as well as on respective property owners.

The market value of rateable properties within the Municipality's jurisdiction shall be recorded in the valuation roll, or supplementary valuation roll/s. As part of the annual budgeting process, the Municipality shall impose a rate in the Rand on such market value. Rateable property includes any rights registered against a property, but excluding a mortgage bond. Some properties are exempt from being rateable.

This policy shall be reviewed and amended as necessary annually. The by-laws give effect to such rates policy.

4. Objectives

4.1 Prioritising service delivery and developmentally promoting the economic and financial viability of the Municipality;

4.2 Providing local government with a sufficient and buoyant source of revenue in order to fulfil its developmental responsibilities; and

4.3 Exercising municipal power to levy rates within a statutory framework.

Further, this Municipality is committed to:

4.4 Charging rates on all rateable property; while

4.5 Treating owners in the same category equitably;

4.6 Levying differing rates for differing properties, as appropriate;

4.7 Exempting certain owners / properties from being subject to payment of rates, in order to be equitable; or

4.8 Granting rebates to certain categories of owners / on certain categories of properties;

4.9 Taking into account the effect of rates on public service infrastructure; and

4.10 Justifiably granting exemptions, rebates, and/or reductions only in terms of section 15 of the MPRA; and

4.11 Not granting such relief to owners on an individual basis.

5. Resolution Rates Levy Promulgated

A rate is levied in terms of a resolution which is passed by the Council, with a supporting vote of a majority of its members. This is then displayed for 30 (thirty) days at the Municipal offices, libraries, the official Municipal website, as well as in a notice published in the media. The resolution is promulgated by being published in the Provincial Gazette.

6. Rates and Categories

Categorisation of properties is determined by the Municipal Valuer, based on the use, or dominant uses in some instances (see 6.1 below) of the property. A change in use of the property will result in a change of category. Rates will be levied based on the value of the property appearing in the Valuation and Supplementary Valuation Rolls.

6.1 Categories of properties (that are used for the following purposes)

- Residential^{1 2}
- Industrial
- Business and Commercial (includes Bed and Breakfast, and the like)
- Mining Properties
- Agriculture
- Public service infrastructure
- Public service purposes (State)
- Vacant land
- Public Benefit Organisation (including places of public worship)

6.2 Categories of owners for determining and granting of Exemptions, reductions and rebates:

- Municipal Properties
- Land Reform Beneficiaries
- Public open space
- Rural communal Settlements
- PSI

6.2.1 A municipality may in terms of criteria set out in its rates policy-

- (a) Exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate levied on their property; or
- (b) Grant to s specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.

6.2.2 When granting in terms of subsection (6.3.1) exemptions, rebates or reductions in respect of owners of categories of properties, a municipality may determine such categories in accordance with section 8(2) and subsection (2A), and when granting exemptions, rebates or reductions in respect of categories of owners of properties, such categories may include-

- (a) indigent owners;
- (b) owners dependent on pensions or social grants for their livelihood;
- (c) owners temporarily without income;
- (d) owners of property situated within an area affected by –
 - i) a disaster within the meaning of the Disaster Management Act, 2002 Act No.57 of 2002); or
 - ii) any other serious adverse social or economic conditions:

- (e) owners of residential properties with a market value lower than an amount determined by the municipality (Impermissible Value of R100 000 on Residential Property)

7. Rebates upon Application

Further rebate in the following circumstances may be granted upon application before 30 June in the year preceding the financial year to which the rebate shall apply:

- 7.1 Pensioner owners (25%);
- 7.2 Disabled owners (25%);
- 7.3 Medically boarded owners (25%);
- 7.4 Child headed households (100%);

It remains within the Municipality's discretion to grant such further rebate as it deems fit and/or viable.

8. Impermissible Differentiation

The following rates shall not be levied:

- 8.1 Different rates on residential properties;
- 8.2 A rate on non-residential properties that exceeds a prescribed ratio to the rate on residential properties;
- 8.3 Rates which unreasonably discriminate between categories of non-residential properties; or
- 8.4 Additional rates, except as allowed by section 22 of the MPRA.

9. Management of Property Rate Shock

- 9.1 It is understood that with the implementation of a new valuation roll, certain properties will be subject to a higher increase than others. It is also expected that rates on certain properties will decrease;
- 9.2 Council will, during the budget process attempt to limit the rates shocks to property owners due to the increase in the rate payable on their properties as a result of the compilation and implementation of the new valuation roll and
- 9.3 The limit in the increase in rates payable will be set at 250% (draft roll will determine).
- 9.4 The following criteria will apply:
 - a) The rates increase must **not** exceed 250%
 - b) The reduction as a result of the rates shock will only apply to Residential property as described in the definition;

- c) The property must be occupied by the owner of the property;
- d) Vacant land will not qualify;
- e) Rates shock will not apply in the case where the rates shock is due to improvements of the property;
- f) Application for the reduction must be made for each financial year before 31 May and the first application must be made in the first year that the new general valuation roll is implemented and will not apply to any ensuing new valuation roll(s);
- g) If no application is made in the first year of the implementation of the new valuation roll, no consideration will be made in any ensuing years and will not apply to new owners of the property after the implementation date (1 July 2017) and
- h) The rate that exceeds the determined percentage will be phased in over ensuing three years.

10. Liability for Payment of Rates

- 10.1 Council must exercise its power to levy a rate on property subject to Section 229 and any other applicable provisions of the Constitution and the provisions of the Municipal Property Rates Act, 2006 as well as the approved rates policy.
- 10.2 Owners of properties are ultimately liable for the payment of rates in relation with their properties. Joint owners are jointly and severally liable; while multiple owners in undivided shares may be held liable for a portion or the rates in their entirety, depending on the circumstances.

11. Rates Account and Annual Assessment Notices

The Municipality shall endeavour to furnish each person liable for the payment of rates with an account specifying the following:

- Balance brought forward;
- Interest;
- Payment / receipts;
- Transaction movement;
- The amount payable monthly for rates due;
- The date on or before which the amount is payable; and
- The market value of the property.

The account holder is liable for the payment of rates regardless of whether they have in fact received such written rates account. It is the rates payer's responsibility to establish the rates due monthly, as well as provide up to date contact information to the Municipality.

The Municipality shall further endeavour to furnish each rate payer with a written notice specifying:

- The amount of rates payable for the financial year;
- The date on or before such amount is payable;
- A breakdown of the amount;
- The market value of the property;
- Whether the property is subject to any compulsory phasing in under section 21 of the MPRA; and
- The amount of discount, if any.

Again, a rate payer is not absolved from the duty to pay as a result of non-receipt of such notice.

Should a property be categorised incorrectly during a prior general valuation process, the Revenue Section would require confirmation from the Municipal Valuer in writing to pass a Credit Note from an effective date of the previous General Valuation which will result in all interest, service charges and rates that have been levied incorrectly on the owner account to be reversed. The supplementary valuation processes effected by the Valuation Section in respect of corrections or amendments to a valuation or category to a property in terms of the Act can only be effected and back dated with effect from the current implemented General Valuation.

12. Payment

Rates are levied for a financial year over a period of 11 (eleven) months, the first instalment payable before or on 31 August of that year.

13. Recovery of Arrears

The Municipality shall endeavour to collect rates in arrears from the registered owner of the property. However, where this proves impossible, the Municipality shall collect such arrears from any tenant, occupier, or agent of the owner. A notice shall first be served on such persons before the arrears are recovered.

The amount recoverable from occupiers or tenants is limited to the amount of rent or other money due or payable but not yet paid by such tenant or occupier to the owner of the property.

The amount recoverable from an agent is limited to any rent or other money received by the agent on the owner's behalf, less any commission due to the agent.

14. Incentives

A further ten percent 10% discount on the annual rates assessment will be granted, if paid in full on or before the last working day of August of the relevant financial year on the following categories of properties:

- Agricultural;
- Vacant land;
- Residential;

- Industrial;
- Business and Commercial;
- Mining

All properties within the Ladysmith CBD, as well as commercial properties in Sir George Street in Colenso, may apply to the Department of Economic Development for further incentives.

For discussion by management

15. Valuation Rolls

A general valuation of all properties in the municipal area will be conducted every five years. Supplementary valuations will be conducted at least once a year.

In preparation of the valuation rolls, the Municipality or its agents may require the owner, occupier or tenant of a property to provide documentation or information to assist in the valuation. Such information shall not be disclosed except in terms of the MPRA, legal proceedings or a court order. Where the required information was not provided and later forms part of an appeal process, the appeal board may order that costs be paid by the party who failed or refused to provide the information.

16. Relevant Dates Relating to the Valuation Rolls

The third general valuation took place with effect from 1 July 2017, and remains valid for a further five financial years.

Rates become payable on the dates mentioned below where they do not become payable from the date of the general valuation:

Supplementary Valuation Roll	Effective date of Rates Levy
Omitted from General Valuation	Date of Supplementary Valuation Roll
Included in / excluded from municipal area	Inclusion / exclusion date
Subdivided or Consolidated	Registration Date
Market value has substantially increased / decreased since General Valuation Alteration and/or additions to buildings New buildings Rezoning	Date the event occurred
Substantially incorrectly valued during General Valuation	Date of Supplementary Valuation Roll
Re-valued for any exceptional reason	Date of Supplementary Valuation Roll
Change of Category	Date the event occurred
Clerical / Typing error	Date on which the clerical / typing error was made

17. Validity Period of this Policy

This policy is valid for the financial year of 2019/2020.

ALFRED DUMA LOCAL MUNICIPALITY



INDIGENT POLICY 2020/2021

SUMMARY OF PROPOSED CHANGES – INDIGENT POLICY

Red & underlined = Inserted

~~Strikethrough~~ = Deleted

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7. CRITERIA FOR QUALIFICATION

- b) The applicant must be the owner of the property, for which he/she is registering as indigent, or an executor of the property for which he/she is registering as indigent or is married in-community of property to the registered owner or a custodian/biological parent if the owner is a minor (relevant documents will be required in this instance);

PREAMBLE

Whereas - the municipality receives an equitable share contribution from National Treasury annually;

And whereas - the National Department of Provincial and Local Government has issued guidelines regarding indigent support;

And whereas - the municipal council wishes to give access to basic services for all of its communities;

Now therefore - the municipal council of Alfred Duma adopts the following:

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1. INTRODUCTION

The Alfred Duma Local Municipality is committed in supporting measures that assist and empower its community. It is accepted that large sections of the community cannot exist without intervention and it is therefore the duty of the municipality to support and to ensure that citizens are able to access their constitutional right to have access to a basic level of services

The municipality must therefore at all times strive to fulfil the constitutional objectives as contemplated in section 152 of the constitution and to meet the criteria for a credible indigent policy as laid down in the Credible indigent Policy Assessment Framework, 2008, provided by the Department of Local Government.

The successful implementation of this policy depends totally on affordability and the social analysis of the area as should be included in the municipality's Integrated Development Planning, with regard to affordability the foundation is laid in section 74 of the Municipal Systems Act, 2000, which stipulates that poor households must have access to basic service through tariffs that cover only the operating and maintenance costs.

2. DEFINITIONS

In this policy, unless the context indicates otherwise –

'Basic municipal services' means a municipal service that is necessary to ensure an acceptable and reasonable quality of life that if not provided, would endanger public health or safety or the environment. For the purposes of this framework "Basic Municipal Services" refers to the following services rendered and subsidized by municipality: electricity/ alternative energy and refuse removal.

'Child headed households' means households headed by a person under the age of 21 years but with all other requirements for an indigent household as stated in this document.

'Consumer' means any occupier of premises to which the Council has agreed to provide or is actually providing any municipal service, or if there is no occupier, the owner of the premises concerned.

'Household' - refers to a house and its occupants regarded as a unit or the people in a family or other group that are living together in one house, including biological/foster/adopted children.

‘Indigent’ means any household or category of households, including a child headed household, earning less than a combined gross income, as determined by the municipality during the compilation of annual budget in terms of a social and economic analysis of its area;

‘Municipal tariff’ means a tariff for a service which a municipality may set for the provision of a service to the local community, and includes a surcharge on such tariff.

‘Occupier’ means any person who occupies any premises or part thereof, without regard to the title under which he or she so occupies.

‘Property’ means any portion of land, of which the boundaries are determined within the jurisdiction of the Municipality;

Defined in terms of MPRA as:

- (a) immovable property registered in the name of a person;
- (b) a right registered against immovable property in the name of a person;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation or;
- (d) public service infrastructure.

‘Property owner’ means a person in whose name property is registered/ the holder of a title deed.

‘Restricted service levels’ - refers to metering and billing system that restricts the household’s consumption of free basic service to the predetermined level allocated to a particular household.

3. POLICY PRINCIPLES

In recognition of the above mentioned National Framework the Municipality undertakes to promote the following principles:

- a) To ensure that the Equitable Share received annually will be utilised for the benefit of the poor only and not to subsidise rates and services charges of those who can afford to pay;
- b) To link this policy with the Municipal Integrated Development Planning, Local Economic Development initiatives and poverty alleviation programmes;
- c) To promote an integrated approach to free basic service delivery and;
- d) To engage the community in the development and implementation of the policy.

4. POLICY OBJECTIVES

In support of the above principles the objective of this policy will be to ensure the following:

- a) The provision of basic services to the community in a sustainable manner within the financial and administrative capacity of the Council;
- b) The financial sustainability of free basic services through the determination of appropriate tariffs that contribute to such sustainability through cross subsidisation;
- c) Establishment of a framework for the identification and management of indigent households including a socio-economic analysis and the indigent exit strategy;
- d) The provision of procedures and guidelines for the subsidisation of basic charges and the provision of free basic energy to indigent households;
- e) To ensure co-operative governance with other spheres of government; and
- f) To enhance the institutional and financial capacity of the municipality to implement the policy.

5. LEGISLATIVE FRAMEWORK

This policy is designed and implemented within the framework of the following legislation:

- a) The Constitution of Republic of South Africa, 1996;
- b) The Municipal Systems Act, 2000 (Act 32 of 2000)
- c) The Municipal Finance Management Act, 2003 (Act 56 of 2003)
- d) The Promotion of Administrative Justice Act , 2000 (Act 3 of 2000)
- e) The Promotion of Access to Information Act , 2000 (Act 2 of 2000)
- f) The Property Rates Act, 2004(Act 6 of 2004)

6. PURPOSE

The purpose of the indigent policy is to:

- a) provide basic services to the community within the financial and administrative capacity of the municipality;
- b) provide procedures and guidelines for the subsidisation of basic service charges to indigent households using the equitable share allocation, received from Central Government, and other budgetary provisions; and
- c) ensure affordability by subsidising tariffs calculated in terms of the municipality's tariff policy and by setting appropriate service levels in accordance with the municipality's service delivery plan.

7. CRITERIA FOR QUALIFICATION

- a) A household, where the combined gross income (**excluding foster care grant monies**) of all the members of the household, over the age of 18 years old, is equal to or less than two (2) state pension grant income;
- b) The applicant must be the owner of the property, for which he/she is registering as indigent, or an executor of the property for which he/she is registering as indigent or is married in-community of property to the registered owner or a custodian/biological parent if the owner is a minor (relevant documents will be required in this instance);
- c) The applicant should not jointly or severally own more than one property; polygamy
- d) The applicant must complete an official application form and provide the required documentary proof;
- e) The applicant must give a consent to the municipality to do a credit check through any third party to verify the information supplied.
- f) The applicant must reside in the municipal area and may not conduct any commercial or industrial activity from the property;
- g) The applicant must be the full-time occupant and may not own any other property, whether within or outside of the municipal area;
- h) The subsidy will only be valid for 12 months, whereafter the applicant then must re-apply;
- i) The application will be approved by the municipality after the information supplied has been verified;
- j) All applicants shall be informed in writing with regard to the outcome of their application;
- k) An indigent applicant must immediately request de-registration if his/her conditions have changed to an extent that he/she no longer qualifies for the indigent support in terms of the criteria set out above;
- l) Council may send officials to the indigent applicant's premises or household for the purpose of conducting an on-site audit of the details provided as well as for indigent audit purposes.

8. EXTENT OF INDIGENT SUBSIDY

- a) Subsidies will be limited to rates, refuse removal and electricity.
- b) The extent of the monthly indigent support granted to indigent households must be based on budgetary allocations for a particular financial year and the tariffs determined for each financial year.
- c) The source of funding of the indigent subsidy is that portion of the equitable share contribution received from National Treasury and any additional provisions made by council and provided for in the annual operating budget

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- d) The subsidy will only be credited to the qualifying customer's accounts until the amount provided on the budget has been exhausted.
 - e) Annual service charges on the indigent's account must automatically be converted to monthly instalments.
 - f) In respect of electricity, all approved beneficiaries for the indigent support automatically qualify for Free Basic Electricity on a 20 amps supply under the following conditions:
 - i. On approval, the conventional electricity meter shall be replaced with a prepaid electricity meter;
 - ii. Until such time, the conventional meter is replaced with a prepaid electricity meter, the applicant shall remain responsible for the consumption charges against that conventional electricity meter.
 - iii. Approved indigent registered household must receive 50kWh free electricity token per month provided that monthly average usage is 150kWh or less.
 - g) In respect of refuse removal services, a full subsidy will apply.
 - h) In respect of property rates, the applicant will receive a full subsidy.
 - i) The accounts of indigent households will be exempted from interest.
 - j) In cases where the consumers is/are minor/s due to circumstances, an appointed guardian may apply on behalf of the minor/s until such time that the minor/s are allowed to apply in terms section 3 (a) of this policy.

9. ADDITIONAL INDIGENT SUBSIDY

- a) Council may provide grants in lieu to certain categories of owners of domestic properties to alleviate poverty.
- b) Properties categorised as domestic with a market value less to be determined by Council annually will qualify for the indigence subsidy. The same benefits will apply as for application indigence. This subsidy will only apply if Council can afford the rebate for a financial year and write-off of arrears for qualifying households will only be approved for rates and refuse charges only.
- c) Council may approve, during the yearly budget process, relieve programmes for rates and refuse for owners who are medically boarded, pensioners and disabled persons and child headed households on application.

10. ARREARS ON INDIGENT ACCOUNTS

- a) Upon registration as an indigent household, the outstanding arrears on the account of the applicant must be kept pending for a period of up to six months after which it may be written off, interest may be calculated on the arrears as contemplated.
- b) If the applicant exits from the indigent support programme within the six (6) months period the outstanding arrears, written-off for the financial year concerned, must be re-introduced in the account and be subjected to the credit control and debt collection policy of the municipality.
- c) The debt of an Indigent customer may be written-off and taken to Council for noting.

11. NON-COMPLIANCE OF HOUSEHOLDS REGISTERED AS INDIGENT

- a) When the indigent applicant fails to comply with any of the conditions as required this policy in order to receive the indigent subsidy benefit, such person will forfeit his or her status as a registered indigent customer with immediate effect, and will thereafter be treated as an ordinary customer for the financial year concerned.
- b) The onus is on each registered indigent to advise the municipal manager of such failure to comply due to the changed circumstances.
- c) The indigent status of an approved indigent customer will be reviewed from time to time, at intervals as determined by Council. This could be done by either physical audit or external verification check such as ITC – Credit Bureau, Department of Labour or any other source of verification. Should the requirements not be met, the subsidy for that consumer will be terminated with immediate effect.
- d) If a registered indigent is found to have provided fraudulent information to the municipality in regard to any material condition for registration as an indigent, such person shall immediately be removed from the register of indigents, and shall be liable to repay the municipality with immediate effect all indigent relief received and debt written-off from the date of such fraudulent registration. Moreover, such person may not again be considered for indigent relief for a period extending for five years beyond the financial year in which the misdemeanour was detected.
- e) Indigent support will be automatically terminated under the following circumstances:
 - i. Upon the death of the applicant, unless the executor of the property re-applies and meets the qualifying criteria;
 - ii. At the end of a financial year;

- 11
- iii. When the indigent applicant disposes of the property, either by sale or by means of donation.

12. IMPLEMENTATION AND REVIEW

- a) The Accounting Officer shall be responsible for the implementation and administration of this policy with the assistance of the Chief Financial Officer in the Department of Finance, once approved by Council.
- b) The policy shall be reviewed annually as part of the budget process.

Annexure 5

1

Alfred Duma Municipality Supply Chain Management Policy



ALFRED DUMA LOCAL MUNICIPALITY

SUPPLY CHAIN

MANAGEMENT

POLICY

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DEFINITIONS

In this policy, unless the context indicates otherwise, the following definitions are applied –

‘Accounting Officer’ means the Municipal Manager of the Municipality within the meaning of Section 82 of the Municipal Structures Act, 1998 (Act No.117 of 1998);

‘The Act’ means the Local Government Municipal Finance Management Act 2003 (Act No. 56 of 2003);

‘Bid’ means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods. This replaces ‘tender’ used in previous policies;

‘CFO’ means the Chief Financial Officer;

‘Close family member’ means: (i) a member of the same household (including someone residing on the premises), (ii) parent (including adoptive parent), (iii) parent-in-law, (iv) son (including adoptive son), (v) son-in-law, (vi) daughter (including adoptive daughter), (vii) daughter-in-law, (viii) step-parent, (ix) step-son, (x) step-daughter, (xi) brother, (xii) sister, (xiii) grandparent, (xiv) grandchild, (xv) uncle, (xvi) aunt, (xvii) nephew, (xviii) niece, (xix) the spouse or unmarried partner in any of (i) to (xii) above;

‘Contract’ means the agreement that results from the acceptance of a bid or quotation by the Municipality;

‘Firm price’ is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies or the rendering costs of any service, for the execution of the contract.

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'In the service of the state' means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the National Assembly or the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial or public entity; or
- (f) an employee of Parliament or provincial legislature.

'Joint Venture' means a joint venture formed by Members in accordance with an Agreement;

'Long-term contract' means a contract with a period exceeding one (1) year;

'MCM' means the Management Committee of the municipality;

'MFMA' means the Municipal Finance Management Act (Act No. 56 of 2003);

'Quotation' means a stated price that a supplier expects to receive for the provision of specified services, works or goods.

'Relevant Executive Director' means the Head of the Department for which the goods or services are being procured; and

'SMME' means a supplier or entrepreneur with an annual turnover of R25 million or less and with black ownership, risk and control of not less than 50% is termed a small black supplier (SBS).

'Senior Manager' is defined in terms of Section 56 of the Municipal Structures Act as “a manager directly accountable to the Municipal Manager”.

'Supply Chain Management Practitioners' includes the Chief Financial Officer, Director: Finance, Assistant Manager: Finance, Senior Accountant: Budget Office and Supply Chain Management, and Accountant: Supply Chain Management.

'Supply Chain Management Unit' comprises of the Supply Chain Manager, Quotation Clerks, Requisition Clerks, Delivery Clerks and Tender Clerks.

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'Treasury guidelines' means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA.

1. OBJECTIVES

To provide a policy in which the Accounting Officer can institute and maintain a supply chain management system that:

- (a) Is transparent, efficient, equitable, competitive, and cost effective for the municipality,
- (b) Applies the highest ethical standards,
- (c) Promotes local economic development,
- (d) Assists in the delivery of quality service to the municipality's customers,
- (e) Promotes interest and confidence in the municipality's procurement processes and other related processes, and
- (f) Gives effect to and complies with relevant legislation, regulations and standards.

By adopting this policy, the council undertakes to observe all applicable national legislation (including amendments and regulations) notably the:

- (a) Preferential Procurement Policy Framework Act No. 5 of 2000;
- (b) Broad Based Black Economic Empowerment Act No 53 of 2003; and
- (c) Municipal Finance Management Act No. 56 of 2003.

This policy is designed to supplement legal prescriptions, and the main provisions are either annexed to this policy or available in the relevant Acts, Regulations and Frameworks.

2. SUPPLY CHAIN MANAGEMENT POLICY

- (1) All officials and other role players in the supply chain management system of the municipality must implement this Policy in a way that –
 - (a) Gives effect to –
- (i) Section 217 of the Constitution; and

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- (c) Certified by the respective departmental official responsible for financial management that there is sufficient budget provision in their relevant budget for the procurement.
- (d) Signed by the Executive Director or official designated by them for this purpose.
- (e) Provided in sufficient time to allow for the lead time involved to procure the goods or services in accordance with this policy.

The municipality is not obliged to accept any quotation or bid received. For a quotation or bid to be considered, it must substantially meet the specifications for the procurement and meet the needs of the municipality. If no quotation or bid is in terms of the specification, the evaluation authority may either:

1. Call for new bids, or
2. Recommend acceptance of the bid nearest to specification provided the evaluation authority is satisfied it offers acceptable value for money, will meet the needs of the municipality, and the Executive Director for which goods are procured concurs with the decision.

4.2 Petty Cash Purchases of R0 to an estimated value of R2 000

Petty cash purchases from R0 up to a value of R2 000 (VAT inclusive) may be procured by obtaining one (1) verbal quote provided a registered supplier from the Central Supplier Database of Government is used and the Executive Director is satisfied that the procurement is cost effective and fair. If a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider. Individual transactions are limited to a maximum of R2000.00.

All petty cash purchases will be approved by the Executive Director, or a delegated official, prior to purchase and limited to a total of R 10 000.00 per month per department. Petty Cash purchases must be made in line with the Petty Cash Management Policy, as approved by Council.

The Executive Director must supply monthly reports on petty cash purchases in accordance with Section 14 'Reporting'. Details of the date, company name, description of service or product and the amount must be included in the report.

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- (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) Is fair, equitable, transparent, competitive and cost effective;
 - (c) Complies with –
 - (i) The Regulations; and
 - (ii) Any minimum norms and standards that may be prescribed in terms of Section 168 of the Act;
 - (d) Is consistent with other applicable legislation;
 - (e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) This Policy applies when the municipality –
- (a) Procures goods or services;
 - (b) Disposes goods that are no longer needed;
 - (c) Selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) Selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
- (a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

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3. AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

- (1) The Accounting Officer must –
 - (a) At least annually review the implementation of this Policy; and
 - (b) When the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to the Council.
- (2) If the Accounting Officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the Accounting Officer must –
 - (a) Ensure that such proposed amendments comply with the Regulations; and
 - (b) Report any deviation from the model policy to the National Treasury and the relevant Provincial Treasury.
- (3) When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

4. METHODS AND PROCESS OF PROCUREMENT

4.1 Procedures for Procurement

The relevant department will prepare the request for quotations.

All requests for the procurement of goods and services must:

- (a) Clearly specify the nature and quantity/duration of the goods and services required. Specifications should be prepared in an unbiased manner and in sufficient detail to enable meaningful evaluation of quotes and bids.
- (b) For requirements above R30 000, include the selection criteria which the quote will be evaluated against, noting that the Preferential Procurement Policy Framework and Supply Chain Management Regulations will apply above R30 000.

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Payments in respect of tyre puncture repairs to municipal vehicles may be paid from petty cash provided that a registered supplier from the municipal database is used.

4.3 Purchases to an estimated value of more than R 2000 to R29 999

Goods and services with a value up to R29 999 (VAT inclusive & other than petty cash purchases above) may be procured by obtaining three (3) written quotations from the list of prospective suppliers on the Central Supplier Database of Government (CSD) on a rotational basis, to avoid the abuse of this process. All quotes are to be inclusive of VAT and the relevant officer will record the name of each potential provider and their quoted prices. The supplier will provide written confirmation of price and goods for placement of an order.

All prospective suppliers must meet the listing requirements of Section 13 (a), (b) and (c) of the Supply Chain Management Regulations.

Quotations of an amount more than R2000 up to R29 999 will be evaluated by the Supply Chain Management Unit officials and be submitted for approval as per Section 4.6 of this policy.

If it is not possible to obtain three (3) quotes, the reasons should be documented by the relevant officer and reported quarterly to the Accounting Officer.

Quotations can be sought from unlisted providers when there are no suitable providers for the commodity or service, provided the suppliers meet the following listing criteria of the Supply Chain Management Regulations.

The provider who submitted the quotation:

- (a) has furnished the municipality with that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
- (b) has authorised the municipality to obtain a tax clearance certificate from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve (12) months;

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- (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholders is in the service of the state, or has been in the service of the state in the previous twelve (12) months; or
- (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub paragraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve (12) months.

4.4 Purchases to an estimated value of R30 000 up to R 199 999

Procurement for (individual items)/requirements above R30 000 up to R199 999 (VAT inclusive) will be by inviting written price quotations (from the list of prospective suppliers in the first instance, when the municipal database is available).

For quotations above R30 000:

- (a) The request will be displayed on the municipality's notice board provided for the purpose, and on the website. Quotation notices will give at least seven (7) days notice and indicate the closing date for submissions.
- (b) The request will be subject to the requirements of the Preferential Procurement Policy Framework Act and its Regulations and evaluated in terms of the 80/20 point system.
- (c) The Executive Director: Finance (CFO) or the Director: Finance is authorised to sign the advertisements for procurement of goods and services above R30 000 to R199 999.

The quotation is required:

- (i) To be in writing, and signed by a person with the necessary authority to act on behalf of the prospective supplier, placed in a sealed envelope which is clearly marked with the notice number and deposited in the quotation box before or on the specified closing date and time.
- (ii) Substantially comply with the specifications set out in the quotation notice; Where it is not possible to advertise for seven (7) days, the reasons will be documented by the relevant officer and approved by the Management Committee.

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Where it is not possible to seek prior approval from the Management Committee due to time constraints, approval must be obtained from the Accounting Officer.

4.5 Purchases to an estimated value of R 200 000 and above and Long-Term Contracts

Procurement requisitions per case above R200 000 (VAT inclusive) and long-term contracts will be by bid invitation. The request for bids will be prepared by the client department and submitted to the Bid Specification Committee. The Bid document must also be provided to the Supply Chain Management Unit to:

- (a) Display on the municipality's notice board created for this purpose.
- (b) Place on the Municipality's website.
- (c) Advertise in a commonly circulated local newspaper for at least fourteen(14) days from the date the advertisement is placed for requirements not above a transaction value of R10 million and for thirty (30) days for requirements in excess of R10 million and long term contracts for longer than a period of one (1) year.
- (d) Include the requirement that bids can only be submitted on the bid documentation provided by the municipality.
- (e) Include the date, time and location of any site meeting or briefing session.
- (f) Include the closing date and opening time of the bid.
- (g) Include a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic.

The Accounting Officer may determine a closure date for the submission of bids which is less than the thirty (30) days or fourteen (14) days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

The Bid Specification Committee may decide to extend the public invitation to other means such as the Government Tender Bulletin and the National Press.

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For a bid to be considered, it must comply with the requirements of Section 13 (a), (b) and (c) of the Supply Chain Management Regulations, and Section 7 of the policy, 'General Conditions and Procedures'. The Municipality may charge a non-refundable deposit for provision of bid documents. Bids from 'Prohibited Bidders' in terms of Sections 43 and 44 of the Supply Chain Management Regulations will not be considered.

The Bid Evaluation Committee will evaluate bids above R200 000 in accordance with the principles of adjudication of this policy and make recommendations to the Bid Adjudication Committee.

4.6 Delegation for Procurement Process

Purchase Value	Required Process
Petty Cash R0 to R2 000	- One (1) verbal quote from database of suppliers. - Approved by Executive Director. - Reported to MCM monthly. - Transaction should not exceed R2000.
Above R10 000 to R29 999	- At least three (3) written quotations (from the database of suppliers when available). - Valid tax clearance certificate required. Expenditure approval by Executive Director and Chief Financial Officer/Director: Finance/ Manager: Supply Chain Management/ Assistant Manager: Supply Chain Management or any other delegated official.
Above R30 000 to R199 999	- At least three (3) written quotations (from the database of suppliers when available). - Valid tax clearance certificate required. - Seven (7) day advertisement on Municipal Website and Municipal Notice Boards. 80/20 Preference Point System applies. Expenditure approval by Executive Director and Chief Financial Officer/Director :Finance and/or Accounting Officer

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Above R200 000 to R50 000 000	• Formal bid required. • Recommendation by Bid Evaluation Committee. • Preferential Procurement Policy Framework Act and Supply Chain Management Regulations - 80/20 Preference Point System applies. • Approval by Bid Adjudication Committee and/or Accounting Officer.
Above R50 000 000	• Formal bid required. • Recommendation by Bid Adjudication Committee • Preferential Procurement Policy Framework Act and Supply Chain Management Regulations– 90/10 Preference Point System applies • Approval by Bid Adjudication Committee and/or Accounting Officer.

Evaluation of tenders on functionality

4.6.1 An organ of state must indicate in the invitation to submit a tender if that tender will be evaluated on functionality.

4.6.2 The evaluation criteria for measuring functionality must be objective.

4.6.3 The tender documents must specify-

- a) the evaluation criteria for measuring functionality
- b) the points for each criteria and, if any, each sub-criterion,
- c) the minimum qualifying score for functionality

4.6.4 The minimum qualifying score for functionality for a tender to be considered further –

- a) must be determined separately for each tender: and
- b) may not be so-
 - (i) low that it may jeopardise the quality of the required goods or services:
 - or
 - (ii) high that it is unreasonably restrictive.

4.6.5 Points scored for functionality must be rounded off to the nearest two decimal places.

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- 4.6.6** A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
- 4.6.7** Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.
- 4.6.8** The municipality will implement a pre-qualification/functionality scorecard for all Supply Chain Management processes above R30 000, taking into consideration the nature of the procurement. Factors taken into consideration includes but is not limited to the following:

- Locality
- Disability
- Experience
- Female Owned
- Youth

4.6.9 Pre-qualification criteria for preferential procurement

1. If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-
 - (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
 - (b) an EME or QSE;
 - (c) a tenderer subcontracting a minimum of 30% to-
 - (a) an EME of QSE;
 - (b) an EME or QSE which is at least 51% owned by black people;
 - (c) an EME or QSE which is at least 51% owned by black people who are youth;
 - (d) an EME or QSE which is at least 51% owned by people who are women;
 - (e) an EME or QSE which is at least 51% owned by black people with disabilities;

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- (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - (g) a co-operative which is at least 51% owned by black people;
 - (h) an EME of QSE which is at least 51% owned by black people who are military veterans.
2. A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

4.7 Principles of Adjudication

4.7.1 Adjudication of Bids valued at more than R 30 000 to R1 000 000

For all quotations and bids with an estimated value of more than R30 000 to R1 000 000, preference points will be allocated as follows:

	POINTS
Price	80
Specified Goals	<u>20</u>
Total	<u>100</u>

The following formula will be used to calculate the points for price in respect of competitive bids/prices or quotations with a Rand value above/more than R30 000 to R1 000 000.

$$P_s = 80 \left(1 - \frac{(P_t - P_{\min})}{P_{\min}} \right)$$

Where

P_s = Points scored for price of bid/offer under consideration.

P_t = Rand value of offer/bid consideration.

$P_{\min}$ = Rand value of lowest acceptable bid/offer.

4.7.1.1 Subject to point (4.7.1.1), points must be awarded to a bidder for attaining the B-BBEE status level of contributor in accordance with the table below.

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B-BBEE STATUS LEVEL OF CONTRIBUTOR	NUMBER OF POINTS
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

4.7.1.2 A maximum of 20 points may be allocated in accordance with point 4.7.1.1.

4.7.1.3 The points scored by a bidder in respect of B-BBEE contribution contemplated in point 4.7.1.1 must be added to the points scored for price as calculated in accordance with point 4.7.1. Points will only be allocated to a supplier whose B-BBEE certificate was issued by a SANAS accredited institution. In the case of Emerging Micro Enterprises points will only be awarded for B-BBEE certificates issued by Accountants/Auditors accredited by professional bodies.

4.7.1.4 Subject to regulation 4.7.3, the contract must be awarded to the bidder who scores the highest total number of points.

4.7.2 Adjudication of Bids above R50 000 000

For all bids with an estimated value above R50 000 000, preference points will be allocated as follows:

	POINTS
Price	90
Specified Goals	<u>10</u>
Total	<u>100</u>

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4.7.2.1 The following formula must be used to calculate the points for price in respect of competitive bids/prices and quotations with a Rand value above R50 000 000 (all applicable taxes included):

$$P_s = 90 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

Where

P_s = Points scored for price of bid/offer under consideration.

P_t = Rand value of offer/bid consideration.

P_{min} = Rand value of lowest acceptable bid/offer.

4.7.2.2 Subject to point 4.7.2.3, points must be awarded to a bidder for attaining their B-BBEE Status level of contributor in accordance with the table below:

B-BBEE STATUS LEVEL OF CONTRIBUTOR	NUMBER OF POINTS
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

Prior to the awarding of a bid, the Municipality may cancel the bid process.

4.7.2.3 A maximum of 10 points may be allocated in accordance with point 4.7.2.2.

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4.7.2.4 The points scored by a bidder in respect of the level of B-BBEE contribution contemplated in point 4.7.2.2 must be added to the points scored for price as calculated in accordance with point 4.7.2.1.

4.7.2.5 Subject to regulation 4.7.3, the contract must be awarded to the bidder who scores the highest total number of points.

4.7.3 Award of contracts to bidders not scoring the highest number of points

4.7.3.1 A contract may be awarded to a bidder that did not score the highest total number of points, only in accordance with section 2 (1) (f) of the Act.

4.7.3.1.1 If an organ of state intends to apply objective criteria in terms of section 2(1)(f) of the Act, the organ of state must stipulate the objective criteria in the tender documents.

4.7.3.2 In exceptional circumstances a contract may on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest points. The reasons for such a decision must be approved and recorded for audit purposes and must be justifiable in a court of law.

Circumstances

- (a) If the bidder is engaged in another similar project for which he was appointed by the Alfred Duma Municipality.
- (b) If the capability of the bidder is deemed unfit to execute two projects at the same time.
- (c) The rotation and fair distribution of work to contractors, especially local SMME's.
- (d) If the bidders progress on a previously appointed project is unsatisfactory.

Criteria for breaking deadlock in scoring

- (a) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.
- (b) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the

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contract must be awarded to the tenderer that scored the highest points for functionality.

- (c) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

4.7.4 Cancellation and re-invitation of bids

4.7.4.1 (a) In the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R50 000 000, the bid invitation must be cancelled.

- (b) If one or more of the acceptable bids received are within the prescribed threshold of R50 000 000, all bids received must be evaluated on the 80/20 preference point system.

4.7.4.2 (a) In the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to, or below R50 000 000, the bid must be cancelled.

- (b) If one or more of the acceptable bids received are above the prescribed threshold of R50 000 000, all bids received must be evaluated on the 90/10 preference point system.

4.7.4.3 An organ of state which has cancelled a bid invitation as contemplated in point 4.7.4.1 (a) and 4.7.4.2 (a) must re-invite bids and must, in the bid documents, stipulate the correct preference point system to be applied.

4.7.4.4 An organ of state may, prior to the award of a bid, cancel a bid if-

- (a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable bids are received.

4.7.4.5 The lowest or any bid will not necessarily be accepted and the Alfred Duma Municipality reserve the right to accept the whole or any part of a bid or to reject any or all the bids without stating the reasons thereof.

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4.7.4.6 Regret letters will be sent to all bidders informing them that the bidding process has been cancelled.

4.7.4.7 Remedies

- (1) Upon detecting that a tenderer submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-
 - (a) inform a tenderer accordingly;
 - (b) give the tenderer an opportunity to make representations within 14 days as to why-
 - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
 - (ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and
 - (iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and
 - (c) if it concludes, after considering the representations referred to in subregulation (1)(b), that
 - (i) such false information was submitted by the tenderer-
 - (aa) disqualify the tenderer or terminate the contract in whole or in part: and
 - (bb) if applicable, claim damages from the tenderer; or
 - (ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to ten 10 percent of the value of the contract.
- (2)(a) An organ of state must-
 - (i) inform the National Treasury, in writing, of any actions take in terms of subregulation (1);
 - (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and

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- (iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state;
- (b) The National Treasury may request an organ of state to submit further information pertaining to subregulation (1) within a specified period.
- (3) The National Treasury must-
 - (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and
 - (b) maintain and publish on its official website a list of restricted suppliers.

4.8 Supply Chain Management Unit

A Supply Chain Management Unit will be established in the Budget and Treasury Office of the Department: Finance to implement this policy. This Unit will report to the Chief Financial Officer (or delegate) in terms of section 82 of the Act.

4.9 Negotiations with Preferred Bidders

- (1) The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
 - a) Does not allow any preferred bidder a second or unfair opportunity;
 - b) Is not to the detriment of any other bidder; and
 - c) Does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

4.10 Advising of Results

All approved bids will be listed on the municipality's website and relevant notice boards on a quarterly basis for a period of seven (7) days. In addition, the Supply Chain Management Unit will notify successful bidders in writing of the awarding of the contract subject to the time period for appeal by unsuccessful bids. The Council will be informed of all bids considered by the Bid Adjudication Committee.

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4.11 Compilation of a List of Prospective Suppliers

- (1) The Accounting Officer (or delegate) will-
 - a) Compile a list of prospective suppliers to be used in procurement requirements in terms of Section 4.2, 4.3 and 4.4 above.
 - b) At least once a year through commonly circulated local newspapers, the municipality's website and any other appropriate ways, invite prospective suppliers of goods or services to apply for evaluation and listing as accredited prospective suppliers.
 - c) Specify the listing criteria for accredited prospective providers; and
 - d) Disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services.
- (3) Suppliers who wish to be included in the list of prospective suppliers without waiting for the next invitation may approach the Supply Chain Management Unit for inclusion, provided they supply the necessary documentation and information for evaluation. Once these requirements have been satisfied, the Supply Chain Management Unit will evaluate the supplier and provide a response within fourteen (14) days.
- (4) The list must be compiled per commodity and per type of service.
- (5) To be eligible for listing, all prospective suppliers must meet the criteria of Section 13 (a), (b) and (c) of the Supply Chain Management Regulations.

4.12 Two-stage Bidding Process

- (1) A two-stage bidding process may be used for
 - (a) Large complex projects;
 - (b) Projects where it may be undesirable to prepare complete detailed technical specifications in advance, and
 - (c) Long term projects with a duration period exceeding three (3) years.
- (2) The first stage will invite technical proposals on the basis of conceptual design or performance specifications, subject to adjustments and technical and commercial clarifications.

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- (3) The second stage will require amended bidding documents, and the submission of final technical proposals and priced bids.

4.13 Unsolicited bids

- (1) In accordance with Section 113 of the Act, there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The Accounting Officer may decide in terms of Section 113(2) of the Act to consider an unsolicited bid, only if –
- (a) The product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) The product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) The person who made the bid is the sole provider of the product or service; and
 - (d) The reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- (3) If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with Section 21A of the Municipal Systems Act, together with –
- (a) Reasons as to why the bid should not be open to other competitors;
 - (b) An explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) An invitation to the public or other potential suppliers to submit their comments within thirty (30) days of the notice.
- (4) The Accounting Officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant Provincial Treasury for comment.
- (5) The Bid Adjudication Committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.
- (6) A meeting of the Bid Adjudication Committee to consider an unsolicited bid must be open to the public.

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- (7) When considering the matter, the Bid Adjudication Committee must take into account –
- (a) Any comments submitted by the public; and
 - (b) Any written comments and recommendations of the National Treasury or the relevant Provincial Treasury.
- (8) If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor-General, the relevant Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven (7) days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within thirty (30) days of the submission.

4.14 Procurement of Goods and Services under contracts secured by other Organs of State

- (1) The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if –
- (a) The contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (b) There is no reason to believe that such contract was not validly procured;
 - (c) There are demonstrable discounts or benefits to do so; and
 - (d) That other organ of state and the provider have consented to such procurement in writing.

Sub paragraphs (1)(c) and (d) do not apply if –

- (a) A municipal entity procures goods or services through a contract secured by its parent municipality; or
 - (b) A municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.
- (2) This process can be applied under the following circumstances:

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- (a) If the contract was advertised and the bid was not responsive.
- (b) If the Supply Chain Management processes were delayed due to an objection or an appeal.
- (c) Due to technical challenges in the implementation of the project e.g. Land etc.
- (d) If the appointed bidder is unable to complete the project.
- (e) To avoid the withdrawal of grants allocated to Council.
- (f) Due to inadequate time to undergo the normal Supply Chain Management processes.

4.15 Proudly SA Campaign

The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- Firstly – suppliers and businesses within the municipality or district;
- Secondly – suppliers and businesses within the relevant province;
- Thirdly – suppliers and businesses within the Republic.

4.16 SMALL MICRO MEDIUM ENTERPRISES

4.16.1 EMERGING CONTRACTORS

Registration and Profiling

The following are minimum requirements for admission into the Municipality's supplier database:

- 4.16.1.1 Registration with CIDB
- 4.16.1.2 Undergone the determined Engineering Basic Training (for CIDB level 1)
- 4.16.1.3 Registration on the Central Supplier Database of Government (CSD)

4.16.2 Database Formulation

- 4.16.2.1 The municipality reserves the right to limit the number of emerging contractors it registers in order to manage the development of contractors efficiently and effectively.
- 4.16.2.2 The list should be used to promote participation of Local Black-owned Small, Medium and Micro Enterprises (SMME's).

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4.16.2.3 The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services.

The following schedule indicates the maximum number of contracts and maximum values within each stage that a single contractor must complete before advancing to the next stage.

STAGE	MAXIMUM CONTRACT VALUE	MAXIMUM NUMBER OF ANY PROJECTS	MAXIMUM ACCUMULATED CONTRACT VALUES IN THE STAGE
1	R50 000.00	4	R200 000.00
2	R100 000.00	4	R400 000.00
3	R150 000.00	4	R600 000.00
4	R200 000.00	4	R800 000.00
5	R500 000.00	5	R1 000 000.00
6	R1 500 000.00	3	R4 500 000.00

- The Alfred Duma Municipality will implement these thresholds in a phased approach. The first stage will be implemented and reviewed in 2012/2013.
- Goods and services may be procured from SMME's at a premium of 10%.
- SMME's within the very micro category will be paid within seven (7) days of receipt of an approved invoice. All other payment are to be made within fourteen (14) days.
- A person awarded a contract of an amount greater than or equal to R50 000 000 (Fifty Million Rand) must include 50% local labour in their staff component.
- A person awarded a contract of an amount greater than or equal to R50 000 000 (Fifty Million Rand) must subcontract the minimum of 20% of the contract to local contractors.

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4.16.3 Subcontracting as condition of tender

14.16.3.1 If feasible to subcontract for a contract above R30 000 000 an organ of state must apply subcontracting to advance designated groups.

14.16.3.2 If an organ of state applies subcontracting as contemplated in subregulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to_

- (a) an EME of QSE;
- (b) an EME or QSE which is at least 51% owned by black people;
- (c) an EME or QSE which is at least 51% owned by black people who are youth;
- (d) an EME or QSE which is at least 51% owned by people who are women;
- (e) an EME or QSE which is at least 51% owned by black people with disabilities;
- (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- (g) a co-operative which is at least 51% owned by black people;
- (h) an EME of QSE which is at least 51% owned by black people who are military veterans; or
- (i) more than one of the categories referred to in paragraphs (a) to (h).

14.16.3.3 The organ of state must make available the list of suppliers registered on a database approved by National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in subregulation (2) from which the tenderer must select a supplier.

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4.16.4 Subcontracting after award of tender

- 14.16.4.1 A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.
- 14.16.4.2 A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 14.16.4.3 A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

5. DEVIATIONS FROM THE PROCUREMENT PROCESS

(1) The Accounting Officer may -

- (i) Deviate from the processes established by this policy and procure through any convenient process, which may include direct negotiations, but only
 - (i) In an emergency;
 - (ii) If such goods or services are produced or available from a single supplier only;
 - (iii) For the acquisition of special works of art or historical objects where the specifications are difficult to compile;
 - (iv) Acquisition of animals for zoos and/or nature and game reserves; or
 - (v) In any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
 - (vi) If it is not possible to obtain three (3) quotations, the reasons should be documented by the relevant officer, approved by the Director: Finance and be reported quarterly to the Accounting Officer.
- (b) Ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

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- (c) If there is a need to deviate from the Supply Chain Management processes, the Executive Director of the affected Department must submit a motivation in writing to the Accounting Officer for approval. Once approval from the Accounting Officer has been obtained, the procurement form and the signed approval must be submitted to the **Department of Finance (SCM Unit)** to expedite the procurement process.

- (2) The Accounting Officer must record the reasons for any deviations in terms of sub paragraphs (1), (a) and (b) of this policy and report them to the next meeting of the Council and include as a note to the Annual Financial Statements.

- (3) Sub paragraph (2) does not apply to the procurement of good and services, including –
 - (a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

6. SUPPLY CHAIN MANAGEMENT COMMITTEES

6.1 Bid Specification Committee

The Accounting Officer will appoint members to the Bid Specification Committee to compile the specifications for procurement of goods or services by the municipality.

Specifications should be:

- (1) Prepared in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (2) In sufficient detail to enable meaningful evaluation of quotes and bids;
- (3) Take into account any accepted standards such as those issued by Standards South Africa, the International Standards Organisation or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (4) Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

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- (5) May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- (6) May not refer to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work in which case such reference must be accompanied by the words "equivalent";
- (7) Must Indicate each specific goal for which points may be awarded in terms of the points system in the Preferential Procurement Act and its Regulations; and
- (8) Must be approved by the Accounting Officer prior to the advertisement of the bid.
- (9) A bid specification committee must be comprised of one or more officials of the municipality or municipal entity, preferable by the manager responsible for the function involved and may, when appropriate, include external specialist advisers.
- (10) No person, advisor or corporate entity involved with the Bid specification Committee may bid for any resulting contracts.

6.2 Bid Evaluation Committee

The Accounting Officer will appoint members to the Bid Evaluation Committee to undertake the evaluation of bids.

- (1) The Bid Evaluation Committee will -
 - (a) Evaluate bids in accordance with
 - (i) The specifications for a specific procurement; and
 - (ii) The points system as set out in Section 4.7 of this policy.
 - (b) Ensure bids are compliant with the requirements of the Supply Chain Management Regulations and this policy;
 - (c) Evaluate each bidder's ability to execute the contract;
 - (d) Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and
 - (e) Submit to the Bid Adjudication Committee, within fourteen (14) days of the closing date of bids, a report and recommendations regarding the award of the bid or any other related matter.
- (2) The Bid Evaluation Committee must as far as possible be composed of –
 - (a) Officials from Departments requiring the goods or services; and

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- (b) At least one Supply Chain Management practitioner of the municipality or municipal entity;
- (3) The Bid Evaluation Committee will reject any bidder who:
- (a) Fails to provide proof from SARS that the bidder has no outstanding tax obligations, or has made arrangements to meet outstanding tax obligations,
 - (b) Has municipal rates, taxes and service charge in arrears,
 - (c) Has committed a corrupt or fraudulent act in competing for the contract, or has been convicted of fraud or corruption in the last five (5) years,
 - (d) Has abused the Supply Chain Management System or committed any improper conduct in relation to the system, and
 - (e) Has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five(5) years.
- (4) Within fourteen (14) days of the closing of bids, the Bid Evaluation Committee will provide to the Bid Adjudication Committee a report and recommendations regarding the award of the bid or any other related matter.

6.3 Bid Adjudication Committee

- (1) The Accounting Officer will appoint members to the Bid Adjudication Committee to perform the adjudicating functions of this policy. The committee must consist of at least four (4) Senior Managers and will be composed as follows:
- (a) At least three (3) Senior Managers who are not a Head of the Department being procured for.
 - (b) The Chief Financial Officer or, if unavailable, another manager in the Budget and Treasury Office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer.
 - (c) At least one Senior Supply Chain Management practitioner who is an official of the municipality.
 - (d) A technical expert in the relevant field, who is an official of the municipality, if such an expert exists (and who was not part of the Bid Evaluation Committee).

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- (2) Neither a member of the Bid Evaluation Committee, nor an advisor of a person assisting the Bid Evaluation Committee, may be a member of the Bid Adjudication Committee.
- (3) The Accounting Officer will appoint the chairperson and an alternate Chairperson of the committee and when one of the appointees is absent, the members of the committee who are present will elect one of them to preside at the meeting.
- (4) The Bid Adjudication Committee will –
 - (a) For bids with a value of R5 000 000 or less, make a final award or a recommendation to the Accounting Officer to make the final award.
 - (b) For bids with a value greater than R5 000 000, make recommendation to the Accounting Officer on how to proceed with the relevant procurement.
- (4) The Bid Adjudication Committee will effectively meet as a sub committee of the Management Committee with the exclusion of the Accounting Officer and Heads of Departments or staff members with an interest in the bid, or who have been part of the Bid Evaluation Committee for the bid. The quorum is the chairperson and three members.
- (6) The minutes of the Bid Adjudication Committee meeting, as the sub-committee of the Management Committee will serve as the written report and will be required to be submitted to the Accounting Officer in terms of Section 5 (3) of the Supply Chain Management Regulations-
 - (a) If the Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must prior to awarding the bid –
 - (i) Check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and
 - (ii) Notify the Accounting Officer for ratification purposes.

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- (b) The Accounting Officer may –
 - (i) After due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in (a); and
 - (ii) If the decision of the Bid Adjudication Committee is rejected, refer the decision of the Bid Adjudication Committee back to that committee for reconsideration.
- (7) The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the Bid Evaluation Committee or the Bid Adjudication Committee back to that committee for reconsideration of the recommendation.
- (8) The Accounting Officer must comply with Section 114 of the Act within ten (10) working days in terms of notifying the required parties if a bid other than the one recommended is approved.

7. GENERAL CONDITIONS AND PROCEDURES

7.1 General Directives

- (1) The following general conditions and procedures contained in this document are applicable to all orders and contracts, unless otherwise approved by the Accounting Officer prior to the invitation of the bid.
- (2) Where applicable, special conditions or procedures are also laid down by the Accounting Officer to cover specific supplies or services.
- (3) Where such special conditions or procedures are in conflict with the general conditions and procedures, the special conditions or procedures shall apply.
- (4) The bidder shall satisfy himself/herself with the conditions and circumstances of the bid. By bidding, the bidder shall deem to have satisfied himself/herself as to all the conditions and circumstances of the bid.
- (5) Formal contracts are concluded with the contractors only where this requirement is stated in the bid invitation.
- (6) The written acceptance of the bid shall be faxed, e-mailed or posted to the bidder or contractor concerned.

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7.2 Invitation of Bids

Invitations to bid indicate the conditions of purchase, preference point system to be used, specifications, delivery schedules, closing dates, contact person and other necessary information.

- (1) Unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred in the preparation and submission of bids on behalf of the bidder.
- (2) Unless approved by the Accounting Officer, notifications of bid invitations are published in the media as determined by this policy for at least fourteen (14) days from the date the advertisement is first placed. Proof of advertisement will be submitted in the bid report to the Bid Adjudication Committee.
- (3) The bid number must not appear on any envelope unless the envelope contains the bid itself.
- (4) The Municipality shall in the bid document indicate the preference point system to be applied in the adjudication of bids.

(5) **Mandatory Formalities**

5.1. The Alfred Duma Municipality reserves the right to reject any bid received from Bidders if the formalities described in the Mandatory Formalities section hereunder are not complied with.

5.2. By submitting a bid for consideration to the Alfred Duma Municipality, the Bidder warrants that he/she/it consents and acknowledges this requirement and undertakes to ensure compliance with the Mandatory Formalities.

5.3. The Mandatory formalities include:

5.3.1 General Conditions of Contract:

Bidders are required to initial each page of the "General Conditions of Contract" section of the Bid document.

5.3.2 Special Conditions of Contract:

Bidders are required to initial each page of the "Special Conditions of Contract" section of the Bid document.

5.3.3 Specifications of Contract

Bidders are required to initial each page of the "Specifications of Contract" section of the Bid document.

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5.3.4 Scope of Work

Bidders are required to initial each page of the "Scope of Work" section of the Bid document.

5.3.5 Witness Signatures

Bidders are required to ensure that there are two witness signatures in all sections of the Bid document which requires the endorsement of a signature.

5.3.6 Alterations and Amendments

Bidders are required to ensure that all amendments or alterations in the Bid document are endorsed by the bidder.

(6) Mandatory Supporting Documentation

6.1 The Alfred Duma Municipality reserves the right to reject any bid received from Bidders if any of the Mandatory Supporting Documentation as described hereunder, as well as the provisions of the "Special Conditions of the Bid" section are not complied with.

6.2 By submitting a bid for consideration to the Alfred Duma Municipality, the Bidder warrants that he/she/it consents to, and acknowledges this requirement and undertakes to ensure compliance with this requirement of the Bid document.

6.3 The Mandatory Supporting documents are:

- (a) Original Valid Tax Clearance Certificate as issued by SARS (no certified copies are allowed).
- (b) Proof of registration as a VAT Vendor, as issued by SARS, where the annual turnover of the individual or entity submitting the bid is R1 000 000.00 (One million rand) or more per annum.
- (c) The specific Supporting documents referred to in the "Special Conditions of Contract" of the Bid document.
- (d) Certified copy of identity document of the person authorised to sign off on the tender document on behalf of the bidder.

Bidders are required to:

- (a) Make use of the Alfred Duma Municipality's official bid documents.
- (b) Insert bid prices and other required information in the appropriate spaces on the prescribed form.
- (c) Furnish all further information called for in the bid documents and to supply pamphlets, samples, etc., where required.

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- (d) Submit an Original Tax Clearance Certificate. Failure to do so will invalidate the bid.
- (e) To complete a declaration that:
 - (i) The information provided is true and correct.
 - (ii) The signatory is duly authorised to sign the bid document.
 - (iii) Bids containing bidders own specified conditions may result in the bid being declared invalid if the bidder fails to renounce such conditions when called upon to do so.
- (7) The bid deposit, which is not refundable, must be paid in at the cashier of the Municipality on Line Item number: 11 115 9168.
- (8) A fully explanatory site inspection, where applicable, must be conducted before the close of bids. This is to ensure that bidders understand the scope of the project and that they comply with the conditions and requirements.
- (9) If applicable, attendance of this meeting will be compulsory and a site inspection attendance register must be completed and signed.
- (10) Bids close at 11:00 on the closing date indicated in the bid documents.
 Unless the Accounting Officer decides otherwise, bids must close at least two (2) weeks after the date of publication. The extension of the closing date may be granted only with the approval of the Accounting Officer upon recommendation of the Chief Financial Officer. This will only be considered if circumstances justify the extension. The closing date of the bid is normally extended only if there is sufficient time to publish an amending notification, before the original closing date.
- (11) The bid shall remain valid for the number of the calendar days indicated in the bid documents and is calculated from the date and time of bid closure endorsed on the front cover of the bid document.
 Should the bid validity expire on a Saturday, Sunday or a Public holiday, the bid shall remain valid and open for acceptance until the closure of business on the following working date.
- (12) Bids shall be lodged not later than the closing time specified for their receipt at the address and in accordance with the directives in the bid documents.
 Each bid shall be addressed in accordance with the directives in the bid documents and shall be lodged in a separate sealed envelope with the name and address of the bidder, the bid number and the closing date indicated on the envelope. The envelope shall not contain documents relating to any bid other than that shown on the envelope.

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No submission of bids via telephone, telex, telegram, telefax or e-mail will be considered.

- (13) Bids are late if they are received at the address indicated in the bid documents after the closing date and time. A late bid shall not be admitted for consideration and where practicable shall be returned unopened to the bidder accompanied by an explanation.
- (14) Bids are opened in public as soon as practicable after the closing date. Upon the bid closing time, the bid document box will be unlocked and opened by an official from the Supply Chain Management Unit, an official from the Internal Audit Unit and an official from the relevant Department (if present) in the presence of the bidders or other interested parties.

At the official opening of the bids, the names of the bidders and the amounts of the bids shall in each case be read out. In instances of bulk bid amounts which are too time consuming to read out, only those requested by bidders will be read, and a complete schedule provided as soon as is practical.

The bid shall be stamped with the official stamp of the Municipality and endorsed with the signatures of the person opening it and of the person in whose presence it was opened.

The Supply Chain Management Unit keeps the original bids and a summary list.

The Supply Chain Manager will ensure that the bid document box is sealed until the time of the official opening, and that it is properly secured.

7.3 Consideration of Bids

- (1) The Municipality takes all bids that are duly submitted into consideration.
- (2) The Municipality reserves the right to accept or reject any bid.

2.1 Issues that may render a bid disqualified:

- (a) Failure by bidder to complete the pricing schedule.
- (b) Failure by a bidder to complete the Pre-qualification section (where there is a pre-qualification section in a bid document)
- (c) Failure to complete the various MBD forms as necessary.
- (d) Failure to complete the Bid declaration with regard to equity.
- (e) Failure to attach required certifications/ proof of registration with an authoritative body (eg PSIRA, CIDB, NHBRC, ICASA etc)

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2.2 Special requirements for bidders with principle business address in the boundary of Alfred Duma Municipality:

- (a) The Municipality reserves the right to disqualify any bidder whose rates, electricity and Municipal service charges are in arrears.
- (b) Bidders are required to attach a copy of the most recent municipal rates and services account to the bid submission.

2.3 Compulsory Institution/ regulatory authority registration.

- (a) Bidders are required to have a valid registration with the CIDB/ NHBRC/ PSIRA to be eligible for consideration in this contract.
- (b) Proof of registration at date of submission of bid to be attached.
- (c) Failure to attach proof of registration will render the bid document invalid.
- (d) Failure to attach a current valid proof of registration will render the bid invalid.
- (e) In the event that there are challenges with an entity's registration, or alternatively where an entity is currently in the process of being registered with the regulatory body or institution contemplated above, then a letter on the letter head of the regulatory body confirming that such registration will be forthcoming shall suffice for this purpose.
- (f) Proof of application for registration will not suffice for the purposes of this clause.

2.4 Briefing Sessions

- (a) In light of the Municipality's fiduciary duties in terms of the MFMA and in order to prevent fruitless and wasteful expenditure where service providers are not familiar with the scope of work at the time of submitting a bid, the Municipality requires all interested bidders to attend a compulsory briefing session for this contract.
- (b) The briefing session is intended inter alia to allow the Municipality to clarify issues, explain the procurement policy applicable, the Supply Chain framework and address logistic and technical issues.
- (c) Failure to attend a compulsory briefing session will entitle the Municipality to disqualify any bid submission received from a particular bidder.
- (d) Bidders who wish to form a Joint Venture must note the "Joint Ventures" section of this contract.

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- (3) The decision by the Municipality regarding the awarding of a contract shall be final and binding.
- (4) Where a contract has been awarded on the basis of information which, after the conclusion of the relevant agreement, is proved to have been incorrect, the Municipality may, in addition to any other legal remedy :
 - (a) Recover all costs, losses or damages it has incurred or suffered as a result of the award of the contract.
 - (b) Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellations.
 - (c) Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid.
 - (d) Restrict the contractor, its shareholders and directors from obtaining business from the Municipality for a period not exceeding ten (10) years.
- (5) The Municipality will adjudicate acceptable bids using the BBBEE Balanced Scorecard preference point system which awards points on the basis of:
 - (a) The bid price, and
 - (b) Meeting specific goals.

The Municipality will normally award the contract to the bidder obtaining the highest score, but will not bind itself to do so.

5.1 Broad Based Black Economic Empowerment Accreditation

- (a) Bidders who wish to claim points in respect of equity must attach the necessary certification as provided by a SANAS accredited institution.
 - (b) Failure to provide such certification will not render the bid submission as invalid, however the bidder in question will not be granted the points claimed.
 - (c) Certificates provided by non-accredited assessors will not be considered. This will not render the bid in question invalid, but the bidder in question will not be grant the points claimed.
- (6) Only a bidder who has completed and signed the declaration part of the bid documentation may be considered for preference points.

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- (7) The Municipality may, before a bid is adjudicated or at any time, require a bidder to substantiate claims he/she has made with regard to preference.
- (8) In the event that different prices are tendered for different periods of a contract, the price for each period must be regarded as a firm price if it conforms to the definition of a "firm price".
- (9) Points scored will be rounded off to the nearest two (2) decimals.
- (10) In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for specified goals. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.
- (11) The preference points in respect of equity ownership will be equated to the percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of a company's shares that are owned by individuals, who are actively involved in the management of the enterprise or business and, exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the bid.
- (12) Where the percentage of ownership contemplated in paragraph 4.7 changes after the closing date of the bid, the bidder must immediately notify the Municipality so that preference points can be adjusted accordingly.
- (13) Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with their degree of ownership.
- (14) All claims made for equity ownership will be considered according to the following criteria:
 - (a) Equity within private companies must be based on the percentage of equity ownership.
 - (b) Preference points must not be awarded to public companies and tertiary institutions.
 - (c) Equity claims for a Trust shall not be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the Trust.

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- (d) Documentation to substantiate the validity of the credentials of the trustees contemplated in paragraph (c) shall be submitted to the Municipality.
- (o) A Consortium or Joint Venture shall, based on the percentage of the contract value managed or executed by their black members, be entitled to equity ownership.

(15) Joint Ventures

Joint ventures means the joint venture formed by:

- (a) Parties wishing to form joint ventures are at liberty to do so.
- (b) All parties to the joint venture must be present and duly represented by a staff member at a compulsory briefing session.
- (c) The Municipality will be entitled to disqualify any bid submission by a Joint Venture where it is established that any party to the joint venture was not duly represented at a compulsory briefing session.
- (d) All parties to a joint venture must each supply the necessary mandatory documents as articulated in the special conditions of bid section. (this includes but is not limited to.
- (e) Each party of the joint venture must provide a resolution from their respective entity indicating that their respective entity is duly authorised to enter into the joint venture.
- (f) The resolution contemplated above must also indicate the name, identity number and capacity of the person/ s with signing authority on behalf of the joint venture.

(15). 1 Joint Venture Agreements must contain the following information:

- (a) The name, physical address, communication addresses and domicillium citandi et executandi of each Member of the Joint Venture.
- (b) A schedule of insurance policies which must be taken out by the Joint Venture and by the individual Members.
- (c) A schedule of sureties, indemnities and guarantees that must be furnished by the Joint Venture and by the individual Members.
- (d) The working capital required by the Joint Venture and the extent to which and manner whereby this will be provided and/or guaranteed by the individual Members from time to time.

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- (e) The banking accounts that are to be opened in the name of the Joint Venture and the manner in which these are to be operated.
 - (f) The names of the auditors and others, if any, who will provide auditing and accounting services to the Joint Venture.
- (16) A person awarded a contract as a result of preference for contracting with, or providing equity ownership, shall not sub-contract more than 25% of the value of the contract to a person who is not Black or does not qualify for such preference.

Bidders submitting two or more offers without declaring their interest will be disqualified.

- (17) A person awarded a contract of an amount greater than or equal to R3 000,000 (Three Million Rand) must subcontract at least 20% of the contract to local contractors.

7.4 Administration of Contracts

7.4.1 Settlement of Disputes

Should any dispute arise between a bidder/supplier and the Municipality with regard to the interpretation of the conditions of a bid, contract or order, the decision of the Municipality shall be final, but execution of a contract or order shall not be delayed pending such decision.

7.4.2 Orders

Supplies shall be delivered and services rendered only upon a written official order from the Municipality, and accounts shall be rendered as indicated on the official order or in the contract, as the case may be.

7.4.3 Packing, Packing Material and Containers

The contractor/supplier is responsible for packing supplies at his/her own cost and in such a manner so as to ensure that there is no loss or damage in transit.

Where provision is expressly made in a contract for the return of packing material or containers, such packing material or containers shall be returned at the contractor's expense.

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7.4.4 Guarantee

Unless the contract stipulates otherwise, the contractor shall guarantee for a period of twelve (12) months that no faulty material or workmanship was used in the manufacture of goods or in the execution of services and that the finished product is not defective. Should the guarantee not be complied with, the Municipality may,

without prejudice to any other rights it may have, demand that the supplies are replaced and the services are repaired without cost to the Municipality.

7.4.5 Payment for Supplies and Services

Subject to any instructions issued with a contract or order, a contractor shall be paid for supplies delivered and services rendered in accordance with the following provisions:

- (a) On the basis of delivery into store or to another nominated destination, only after receipt of a detailed account and after delivery has been effected.
- (b) On the basis of delivered and erected, installed, etc., only after receipt of a detailed account supported by a certificate of satisfactory execution issued by a Municipality agent.
- (c) Payment will normally be effected within thirty (30) days after receipt of statement and required documentation, which should be correct in every respect. Should a contractor indicate a special discount on his/her account provided payment is made within a certain time, every effort shall be made to take advantage of such discount.
- (d) As a rule, payment is made to the contractor only. When payment is claimed by another party, the latter must produce a written transfer, power of attorney or authorisation and, before payment is made, the contractor must confirm that the transfer, power of attorney or authorisation has been given by him/her and that payment may be claimed in terms thereof.

7.4.6 Management of Expansion or Variation Orders against the Original Contract

Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.

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7.4.7 Cession of Contract

All Cession of Contracts must be in line with Council's Cession Policy which was adopted.

7.4.8 Remedies in the case of Death, Sequestration, Liquidation or Judicial Management

In the event of the death of a contractor or the provision or final sequestration of his/her estate or of his/her cession or transfer of a contract without the approval of the Municipality or of the surrender of his/her estate or of his/her reaching a compromise with his/her creditors or of the provisional or final liquidation of a contractor's company or the placing of its affairs under judicial management, the Municipality may, without prejudice to any other rights it may have, exercise any of the following:

- (a) Cancel the contract and accept any of the bids, which were submitted originally with that of the contractor or any offer subsequently received to complete the contract. In such a case, the estate of the contractor shall not be relieved from liability for any claim which has risen or may arise against the contractor in respect of supplies not delivered or work not carried out by him/her under the contract, and the Municipality shall have the right to hold and retain all or any of the securities and retention monies held by it at the date of the aforesaid occurrences until such claim has been satisfied; or
- (b) Allow the executor, trustee, liquidator or judicial manager, as the case may be, for and on behalf of and at the cost and expenses of the estate of the contractor to carry on with and complete the contract.

7.4.9 Contractor's Liability

In the event of the contract being cancelled by the Municipality in the exercise of its rights in terms of these conditions, the contractor shall be liable to pay to the Municipality any losses sustained and/or additional costs or expenditure incurred as a result of such cancellation. The Municipality shall have the right to recover such losses, damages or additional costs by means of set-off from monies due or which may become due in terms of the contract or any other contract, or from a guarantee provided for the due fulfilment of the contract and, until such time as the amount of such losses, damages or additional costs have been determined, to retain such monies or guarantee

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or any deposit as security for any loss which the Municipality may suffer or have suffered.

The contractor may be held responsible for any consequential damages and loss sustained which may be caused by any defect, latent or otherwise, in the supply or

service rendered or if the supply or service as a result of such defect, latent, otherwise, does not conform to any condition or requirement of the contract.

7.4.10 Transfer of Contracts

The contractor shall not abandon, transfer, assign or sublet a contract or part thereof without the written permission of the Municipality.

8. DISPOSAL MANAGEMENT

8.1 Disposal and Letting of the Municipality's Assets

- (1) The Accounting Officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to Sections 14 and 90 of the Act.

The disposal of assets must –

- (a) Be by one of the following methods –

- (i) Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- (ii) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (iii) Selling the asset; or
- (iv) Destroying the asset;

- (b) Provided that –

- (i) Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (ii) Movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;

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- (iii) In the case of the free disposal of computer equipment, the provincial Department of Education must first be approached to indicate within thirty (30) days whether any of the local schools are interested in the equipment; and
 - (iv) In the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
 - (v) Furthermore, ensure that –
 - (i) Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
 - (ii) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
- (c) Ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

8.2 Evaluation of Offers/Bids for Disposal and Letting of Assets

The same procedures for disposal and letting of assets apply as for procurement under this policy, including application of the Preferential Procurement Policy Framework Act and the Supply Chain Management Regulations.

Bids for assets with a value less than R30 000 will be evaluated by the Supply Chain Management Unit in conjunction with the relevant department and adjudicated by the MCM. The municipality reserves the right not to accept any bids offered.

When land and buildings are to be sold at market value, a registered valuator will determine the market value. Sale of assets through competitive bidding or auction will follow the same communication process prescribed for bids. In addition, advice will be given about where prospective buyers/bidders may view the assets and any notification of auction will advise the date, time and venue of the auction.

Disposal and letting of assets with a value above R30 000 to R1 000 000 will be evaluated and adjudicated on in accordance with this policy. Preference points will be allocated as follows:

	POINTS
Price	80
Specified Goals	<u>20</u>
Total	<u>100</u>

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The following formula will be used to calculate the points for price in respect of competitive bids with a Rand value above R30 000 to R1 000 000.

$$P_s = \frac{80 \left(1 + \frac{P_t - P_h}{P_h} \right)}{\left(\frac{P_t - P_h}{P_h} \right)}$$

Where

P_s = Points scored for price of bid under consideration

P_t = Rand value of bid under consideration

P_h = Rand value of highest acceptable bid

The points allocated for Specified Goals are in accordance with Council's Procurement Policy and are detailed in Section 4.7.1 of this Policy.

Disposal and letting of assets with a value above R1 000 000 will be evaluated and adjudicated on in accordance with this policy. Preference points will be allocated as follows:

POINTS

Price	90
Specified Goals	<u>10</u>
Total	<u>100</u>

The following formula will be used to calculate the points for price in respect of competitive bids with a Rand value above R1 000 000.

$$P_s = \frac{90 \left(1 + \frac{P_t - P_h}{P_h} \right)}{\left(\frac{P_t - P_h}{P_h} \right)}$$

Where

P_s = Points scored for price of bid under consideration

P_t = Rand value of bid under consideration

P_h = Rand value of highest acceptable bid

The points allocated for Specified Goals are in accordance with Council's Procurement Policy and are detailed in Section 4.7.2 of this Policy.

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9. SPECIALISED PROCUREMENT

9.1 Annual Supply Contracts

In the case of materials and goods which are required on a continuous basis throughout the year, annual bids are invited each year to cater for the needs for the following year. Bids for Annual Supply Contracts should generally be restricted to requirements for bulk supplies, and not used for day-to-day requirements. The Accounting Officer may prescribe restrictions on the use of Annual Supply Contracts for procurement.

Schedules of items are to be compiled by the appropriate Specification Committee in conjunction with the Executive Director and provided to the Supply Chain Manager by 01 April each year. Once the schedules of items have been received, they will follow the usual bid process for evaluation and award.

9.1.1 Panel of Service Providers

Appointments will be done on a rotational basis from the panel of service providers OR service providers on the panel will be requested to quote.

9.2 Procurement of Banking Services

Banking services are to be procured through competitive bids for a period of not more than five (5) years and must be consistent with Sections 7 or 85 of the Act. Bids will be restricted to banks registered in terms of the Banks Act, 1990. (Act No. 94 of 1990).

The process for procuring a contract for banking services will commence at least nine (9) months before the end of an existing contract. The request for bids will be in accordance with Section 4.5 of this policy but the closure date for submission will be at least sixty (60) days from the date the advertisement is placed.

9.3 Procurement of IT related Goods and Services

The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to SITA.

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 The Accounting Officer must notify SITA together with a motivation of the IT needs if –

- (a) The transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
- (b) The transaction value of a contract to be procured, whether for one or more years, exceeds R50 million (VAT included).

If SITA comments on the submission, and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the National Treasury, the relevant Provincial Treasury and the Auditor-General.

9.4 Procurement under Contracts by Other Organs of State

Goods or services may be procured under a contract secured by another organ of state provided:

- (a) The contract was secured by a competitive bidding process and the municipality has no reason to believe the contract was not validly procured.
- (b) There are demonstrable discounts or benefits to the municipality.
- (c) The organ of state and the provider have consented to the procurement in writing.

9.5 Procurement of Goods requiring Special Safety Arrangements

Procurement for goods that require special safety arrangements such as gasses and fuel should be restricted to minimum requirements for the municipality. Storage of such goods will be justified on sound reasons including the total cost of ownership and cost advantages to the municipality, as well as the environmental impact and must be approved by the Accounting Officer.

9.6 Appointment of Consultants

Consultants should be appointed by means of a competitive bidding process and must take into account any National Treasury guidelines. If the consultant's contract exceeds R200 000 (VAT included) or the duration period exceeds one (1) year, it must be procured through competitive bids.

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Bidders must provide particulars of all consultancy services provided to an organ of state in the last five (5) years, or any similar consultancy services provided to an organ of state in the last five (5) years.

The Accounting Officer will ensure that copyright, in any document produced, patent rights or ownership in any plant, machinery, thing, system or process designed or devised by a consultant in the course of the consultancy service is vested in the municipality.

The appointment of consultants must also be in line with Council's Appointment of Consultants Policy which was adopted on 26 June 2014 (LC51/06/2014).

Consultants must be in line with Circular No. 80 of the MFMA issued by the National Treasury in April 2016.

9.7 Leasing of Property, Plant and Equipment

The process to be followed when procuring for Municipal requirements in terms of external leasing of property, plant and equipment is the same as is required for procurement of goods and services detailed in Section 4 of this policy.

10. OBJECTIONS AND COMPLAINTS

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within fourteen (14) days of the decision or action, a written objection or complaint against the decision or action.

- (a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the Accounting Officer of the municipality who shall, in turn, within twenty four (24) hours refer the written objection or complaint to the independent and impartial person referred to in paragraph 50 of the resolution.
- (b) if such complaint or objection is against the award of a bid, the Accounting Officer must refer the matter to the Municipal Bid Appeals Committee. The committee must then convene within a period of seven (7) days.
- (c) if the matter is not resolved by the Municipal Bid Appeals Committee the matter can be referred to the Municipal Appeal Tribunal.

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- (d) any responses requested from the bidder pertaining to any objection must be received by the municipality within five (5) working days.
- (e) any information that is requested and not already accessible to the public, must comply with PAIA.

10.1 Resolution of Objections and Complaints Against Procurement Processes

- (1) The Accounting Officer must appoint an independent and impartial person, not directly involved in the Supply Chain Management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding –
 - (a) the implementation of the procurement process in terms of the Supply Chain Management system; or
 - (b) any matter arising from the implementation of the procurement process in terms of the Supply Chain Management system.
- (2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
 - (a) Strive to resolve promptly all objections or complaints received; and
 - (b) Submit monthly reports to the Accounting Officer on all such objections and complaints received, attended to or resolved.
- (4) If the independent and impartial person referred to in paragraph 10.2 (1), is of the view that a matter which should be dealt with in terms of paragraph 50.A, he or she shall forthwith refer the matter to the Municipal Bid Appeals Tribunal and that Tribunal shall then hear and determine the matter in accordance with the provisions of paragraph 50.A.
- (5) An objection or complaint may be referred to the Kwazulu-Natal Provincial Treasury if:
 - (a) The dispute, objection, complaint or query is not resolved within sixty (60) days; or
 - (b) No response is forthcoming within sixty (60) days.

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- (6) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

10.2 Municipal Bid Appeals Tribunal

1. The Council shall establish a Municipal bid appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.
2. The Accounting Officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.
3. The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked **Appendix A**.
4. The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed

by officers of the Provincial Treasury as set out in the Rules referred to in paragraph 50.A (3).
5. There shall be not further appeal against a decision of the Municipal Bid Appeals Tribunal.

11. BID DOCUMENTATION

All bid documentation must include the following:

- (1) The requirement for bids to be submitted in Rands.
- (2) The requirement for bidder's to furnish their tax reference number, VAT registration number and their identification or company registration number.
- (3) For procurement in excess of R30 000, provide an indication from SARS that the bidders tax matters are in order.
- (4) Require the bidder to disclose if the bidder or their family has any declared interest in terms of Section 20 (f) of the Supply Chain Management Regulations.
- (5) The requirement for site meetings or briefing session.

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- (6) Evaluation and adjudication criteria including any criteria stated in the Preferential Procurement Policy Framework Act and Supply Chain Management Regulations.
- (7) Screening processes and security clearance procedures for contractors on bids above R1 000 000.
- (8) Where the value of the transaction is expected to exceed R10 million, furnish the documents and information required by Section 20 (g) of the Supply Chain Management Regulations.
- (9) The requirement for compulsory disclosure of any conflict of interest a prospective contractor may have and the exclusion of that contractor from those bids.
- (10) The requirement for exclusion of persons under Section 112 (1) (f) of the MFMA, including those persons convicted of fraud or corruption, who have failed to honour a government contract, or whose tax matters have not been cleared by the South African Revenue Service.
- (11) Stipulate that disputes will be settled by means of mutual consultation, mediation (with or without legal representation) or when unsuccessful, in a South African court of law.
- (12) Contract management processes and procedures including provision for the Accounting Officer to cancel the contract for unsatisfactory performance.
- (13) Other matters and documentation as may be required by the Municipal Financial Management Act, The Supply Chain Management Regulations, the Municipality's Supply Chain Management Policy and procedures for Supply Chain Management and any National Treasury Supply Chain Management Guidelines.
- (14) General conditions of contract.
- (15) The requirements of the Construction Industry Development Board in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.

11.1 Mandatory Formalities

The Alfred Duma Municipality reserves the right to reject any bid received from Bidders if the formalities described in the Mandatory Formalities Section under the General Conditions of Bid Section are not complied with.

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By submitting a bid for consideration by the Alfred Duma Municipality, the Bidder warrants that the bidder consents and acknowledges this requirement and undertakes to ensure compliance with this provision.

The Mandatory formalities include:

1.1. General Conditions of Contract:

Bidders are required to initial each page of the General conditions section of the bid document.

1.2. Special Conditions of Contract:

Bidders are required to initial each page of the Special conditions section of the bid document.

1.3. Specifications of Contract

Bidders are required to initial each page of the Specifications of Contract section of the bid document.

1.4. Witness Signatures

Bidders are required to ensure that there are two witness signatures in all sections requiring the endorsement of a signature.

1.5. Alterations and Amendments

Bidders are required to ensure that all amendments and/alterations are endorsed by the bidder. Any responsive bidder may be called in to complete omitted information, provided the information omitted does not have a direct impact on the pricing and BEE status, based on the discretion of the Accounting Officer.

11.2 Mandatory Supporting Documentation

The Alfred Duma Municipality reserves the right to reject any bid received from Bidders if any of the Mandatory Supporting Documentation Section as under the General Conditions of Bid Section, and read together with the provisions of the Special Conditions Section are not complied with.

By submitting a bid for consideration by the Alfred Duma Municipality, The Bidder warrants that the bidder consents and acknowledges this requirement and undertakes to ensure compliance with this provision.

The Mandatory Supporting documents are:

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(1) A Valid Tax Clearance Certificate

The Supply Chain Management (SCM) unit must verify with South African Revenue Service (SARS) that the bidders Tax matters are in order by calling the SARS help line, and all case numbers must be documented.

(2) Proof of registration as a VAT Vendor

(3) The specific Supporting Documents referred to in the Special Conditions of the Bid Section

11.3 Vat Vendor Registration

The Alfred Duma Municipality will only award tenders and contracts to individuals and/or entities that are registered as VAT vendors in terms of Section 23 of the VAT Registration Act.

The Alfred Duma Municipality reserves the right to reject any bid tendered by an individual/entity that is not registered as a VAT vendor as described above.

Proof of registration as a VAT vendor forms part of the essential documentation for purposes submitting bids.

11.4 Local Production and Content

Bids must be advertised with a specific condition that only locally produced goods, works or services or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered. The Municipal Bidding Documents (MBD 6.2) 'Declaration Certificate for Local Production and Content for Designated Sectors' for the following sectors that have been designated:

Textile clothing, leather and footwear;

Buses (bus body);

Steel power pylons;

Canned / processed vegetables;

Rail rolling stock;

Set top boxes;

Furniture; and

Electrical and telecom cable products.

Where necessary, for bids referred to in paragraph above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local

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production and content and the second stage evaluation on Price and B-BBEE.

A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold. The Accounting officer must procure any requirements, relating to the above mentioned designated sectors, in accordance with National Treasury's directives and MBD 6.2.

12. CONTRACT MANAGEMENT

Once the Bid Adjudication Committee has awarded a contract, the responsibility for managing that contract rests with the Department who initiated the need for that contract. Each department will develop and review the necessary performance management systems, including appropriate record keeping to ensure contracts are managed in an effective and efficient manner. The appropriate department will manage contracts which procure goods or services for more than one department.

The provision for cancellation of a contract for unsatisfactory performance and the appropriate mechanisms to undertake the cancellation will be included in the relevant contract documentation.

The Accounting Officer will cancel a contract awarded to a person if:

- (a) That person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- (b) An official or any other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person.

12.1 Amendments of Contract

Proposed amendments in terms of Section 116 (3) will be advertised on the municipal website and notice boards for a period of fourteen (14) days.

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13. TRAINING OF OFFICIALS

The municipality will provide resources or opportunities for the Accounting Officer and all other relevant officials involved in the implementation of this policy to undertake training to meet the competency levels required under the Act in the form of the SAQA Level 6 Module in Supply Chain Management which forms part of the Certificate in Municipal Financial Management. Officials will comply with these competency standards from 1 July 2006 or a later date as determined by National Treasury.

14. PREVENTING SUPPLY CHAIN MANAGEMENT ABUSE

The Accounting Officer will take all reasonable steps to prevent abuse of the Supply Chain Management System, investigate any reasonable allegations of abuse or failure to comply with this system, and when justified take appropriate action against officials or other role players.

No provider or prospective provider of goods or services to the municipality, or recipient or prospective recipient may directly or indirectly offer or grant any reward, gift, favour or hospitality to any official or other role player involved in the implementation of the Supply Chain Management Policy. The Accounting Officer will report any alleged contraventions to National Treasury for consideration of inclusion in their database of persons prohibited from doing business with government.

15. DELEGATIONS AND PRESCRIPTIONS

The Council hereby delegates such additional powers and duties to the Accounting Officer so as to enable the Accounting Officer to—

- (a) Discharge the supply chain management responsibilities conferred in terms of:
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) The supply chain management policy.
- (c) Maximise administrative and operational efficiency in the implementation of the supply chain management policy;

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- (c) Enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation
- (d) Comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Act.

The Accounting Officer is responsible for ensuring that this policy is implemented and enforced.

The Council or Accounting Officer may not delegate or sub delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee, which is not exclusively composed of officials of the municipality.

The Accounting Officer will provide written delegated authority to the Bid Adjudication Committee to award bids to the value of R1 000 000. Above this value, the Accounting Officer will award bids following consideration of the Bid Adjudication Committees recommendations.

15.1. Sub delegation

(1) The Accounting Officer may, in terms of Section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such subdelegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

(2) The power to make a final award –

- (a) Above R10 million (VAT included) may not be subdelegated by the Accounting Officer;
- (b) Above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
 - (i) The Chief Financial Officer;
 - (ii) A Senior Manager; or
 - (iii) A Bid Adjudication Committee of which the Chief Financial Officer or a Senior Manager is a member; or
- (d) Not exceeding R2 million (VAT included) may be subdelegated but only to –
 - (i) The Chief Financial Officer;

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- (ii) A Senior Manager;
 - (iii) A Manager directly accountable to the Chief Financial Officer or a Senior Manager; or
 - (iv) A Bid Adjudication Committee.
- (3) An official or Bid Adjudication Committee to which the power to make final awards has been sub delegated in accordance with sub paragraph (2) must within five (5) days of the end of each month submit to the official referred to in sub paragraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–
 - (a) The amount of the award;
 - (b) The name of the person to whom the award was made; and
 - (c) The reason why the award was made to that person.
- (4) A written report referred to in sub paragraph (3) must be submitted –
 - (a) To the Accounting Officer, in the case of an award by –
 - (i) The Chief Financial Officer;
 - (ii) A Senior Manager; or
 - (iii) A Bid Adjudication Committee of which the Chief Financial Officer or a Senior Manager is a member; or
 - (b) The Chief Financial Officer or the Senior Manager responsible for the relevant bid, in the case of an award by –
 - (i) A Manager referred to in subparagraph (2)(c)(iii); or
 - (ii) A Bid Adjudication Committee of which the Chief Financial Officer or a Senior Manager is not a member.
- (5) Sub paragraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in Section 6 of this Policy.

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- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

Where the procurement will have future budgetary implications, Section 33 of the MFMA regarding contracts will be complied with. Following Council adoption of this policy, Section 33 (1) will not apply to contracts valued at below R200 000 per annum or to Contracts for the following:

- (1) Radio or vehicles licences;
- (2) The aerodrome licence; and
- (3) Grass cutting & maintenance of the Klip River.

16. REPORTING

16.1 Petty Cash

Within ten (10) days of the end of the month, each Executive Director will provide to the Chief Financial Officer a reconciliation of all petty cash purchases which includes the total amount of petty cash purchases for the month and receipts and appropriate documents for each purchase.

16.2 Quarterly Reporting

Within ten (10) days of the end of the quarter, the Chief Financial Officer will submit a report to the Accounting Officer with the list of procurements where three (3) quotations were not obtained together with the appropriate explanation.

Within ten (10) days of the end of the quarter, the Accounting Officer will submit a report to the Mayor on the implementation of the Supply Chain Management Policy. This report will be made public by notification in a locally distributed newspaper, placed on the municipality's website, and displayed on the municipality's public notice board.

16.3 Annual Reporting

Within sixty (60) days of the end of the financial year, the Accounting Officer will submit a report to Provincial Treasury regarding the municipality's Supply Chain Management in a format to be determined by National Treasury.

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16.4 Other Reporting

Goods or services procured under Section 110 (2) of the Act from another organ of state to which this policy does not apply will be made public as part of the annual budget or a separate process. The publication notification will include the kind of goods or services and the name of the supplier.

Where there has been a deviation from the requirement for inviting competitive bids, the Accounting Officer will report the reasons at the next Council meeting, and include as a note to the Annual Financial Statements.

17. LOGISTICS, RISK AND PERFORMANCE MANAGEMENT

17.1 Logistics Management

The Accounting Officer will establish an effective system of logistics management in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration.

17.2 Risk Management

- (1) The Accounting Officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the Supply Chain Management system.
- (2) Risk management must include –
 - (a) The identification of risks on a case-by-case basis;
 - (b) The allocation of risks to the party best suited to manage such risk;
 - (c) Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
 - (e) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

17.3 Performance Management

The Accounting Officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply

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chain management processes were followed and whether the desired objectives were achieved.

18. OTHER MATTERS

18.1 Prohibition on Awards to Persons whose Tax Matters are not in Order

- (1) The Accounting Officer will ensure that, irrespective of the procurement process followed, no award above R30 000 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person, the Department of Finance must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within seven (7) days, such person's tax matters may for purposes of sub paragraph (1) be presumed to be in order.

18.2 Prohibition on Awards to Persons in the Service of the State

The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be given to a person –

- (a) Who is in the service of the state; or
- (b) If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) A person who is an advisor or consultant contracted with the municipality.

18.3 Awards to close Family Members of Persons in the Service of the State

The notes to the annual financial statements must disclose particulars of any award or more than R10 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve (12) months, including –

- (a) The name of that person;
- (b) The capacity in which that person is in the service of the state; and
- (c) The amount of the award.

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18.4 Ethical Standards

- (1) A code of ethical standards is hereby established, in accordance with sub paragraph (2), for officials and other role players in the supply chain management system in order to promote –
 - (a) Mutual trust and respect; and
 - (b) An environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of the supply chain management policy –
 - (a) Must treat all providers and potential providers equitably;
 - (b) May not knowingly understate or split a procurement requisition with the intention of avoiding a more stringent procurement process
 - (c) May not use his or her position for private gain or to improperly benefit another person;
 - (d) May not accept any reward, gift, favour, hospitality, or another benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350,00;
 - (e) Notwithstanding sub paragraph (2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (f) Must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by the municipality;
 - (g) Must immediately withdraw from participating in any matter whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (h) Must be scrupulous in his or her use of property belonging to the municipality;
 - (i) Must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

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- (j) Must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) Any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) Any alleged contravention of paragraph 15.5 (1) of this policy; or
 - (iii) Any alleged breach of this code of ethical standards.
- (3) Declarations in terms of sub paragraphs (2)(d) and (e) –
 - (a) Must be recorded in a register which the Accounting Officer must keep for this purpose;
 - (b) By the Accounting Officer must be made to the Mayor of the municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) It is recommended that the municipality adopt the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality.
- (6) A copy of the National Treasury code of conduct is available on the website www.treasury.gov.za/mfma located under "legislation".
- (7) A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Municipal Systems Act.

18.5 Inducements, Rewards, Gifts and Favours to Municipalities, Officials and other Role Players

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant
 - (a) Any inducement or reward to the municipality for or in connection with the award of a contract; or
 - (b) Any reward, gift, favour or hospitality to –
 - (i) Any official; or
 - (ii) Any other role player.

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- (2) The Accounting Officer must promptly report any alleged contravention of sub paragraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Sub paragraph (1) does not apply to gifts less than R350 in value.

18.6 Sponsorships

The Accounting Officer must promptly disclose to the National Treasury and the relevant Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

- (a) A provider or prospective provider of goods or services; or
- (b) A recipient or prospective recipient of goods disposed or to be disposed.

18.7 Objections and Complaints

Any persons aggrieved by decisions or actions taken by the municipality in the implementation of its supply chain management system, may lodge within fourteen (14) days of the decision or action a written objection or complaint to the municipality against the decision or action.

18.8 Contracts providing for Compensation based on Turnover

Where a service provider acts on behalf of the municipality as a distributor of grants or collector or service charges or taxes, and the compensation payable is an agreed percentage of the distribution or collection, then the contract between the provider and the municipality must stipulate that:

- (a) The compensation must be performance based;
- (b) Changes in the turnover as a result of changes in the amount of the grant or service charge/tax must be disregarded in determining the compensation.

19. POLICY PROCEDURES AND REVIEW

This policy will be reviewed annually as part of the review of budget-related policies. The Accounting Officer will promptly develop procedures to support the implementation, management and monitoring of this policy including methods for effective risk management and performance management in accordance with Sections 41 and 42 of the Framework for Supply Chain Management Policies respectively.

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20. OVERSIGHT ROLE OF COUNCIL

- (1) The Council must maintain oversight over the implementation of the Supply Chain Management Policy.
- (2) For the purpose of such oversight, the Accounting Officer must –
 - (a) Within thirty (30) days of the end of each financial year, submit a report on the implementation of the Supply Chain Management policy of the municipality, to the Council of the municipality,
 - (b) Whenever there are serious and material problems in the implementation of the Supply Chain Management policy, immediately submit a report to the Council.
- (3) The Accounting Officer must, within ten (10) days of the end of each quarter, submit a report on the implementation of the Supply Chain Management Policy to the Mayor.
- (4) The reports must be made public in accordance with Section 21A of the Municipal Systems Act.

21. BY-LAWS

The Council will publish the appropriate by-laws necessary to give effect to the Supply Chain Management Policy.

22. ADOPTION OF THE SUPPLY CHAIN MANAGEMENT POLICY

The Supply Chain Management Policy was adopted by Council on 27 October 2005 and reviewed on 31 May 2019.



ALFRED DUMA LOCAL MUNICIPALITY

CASH MANAGEMENT AND INVESTMENT POLICY

1. LEGAL COMPLIANCE

The municipality shall at all times manage its banking arrangements and investments and conduct its cash management policy in compliance with the provisions of and any further prescriptions made by the Minister of Finance in terms of the Municipal Finance Management Act No. 56 of 2003.

The municipality is required to establish an appropriate and effective cash management and investment policy that sets out the objectives, policies, statutory requirements and guidelines for cash management and investment of funds.

A paraphrase of the provisions of this Act is attached as Annexure A to this policy.

2. OBJECTIVE OF THE CASH MANAGEMENT AND INVESTMENT POLICY

The council of the municipality is the trustee of the public revenues, which it collects, and it therefore has an obligation to the community to ensure that the municipality's cash resources are managed effectively and efficiently.

The council therefore has a responsibility to invest these public revenues knowledgeably and judiciously, and must be able to account fully to the community in regard to such investments.

The cash management and investment policy of the municipality is therefore aimed at gaining the optimal return on investments, without incurring undue risks, during those periods when cash revenues are not needed for capital or operational purposes. The effectiveness of the investment policy is dependent on the accuracy of the municipality's cash management programme, which must identify the amounts surplus to the municipality's needs, as well as the time when and period for which such revenues are surplus. The municipality must maintain adequate liquidity to meet cash flow requirements.

3. EFFECTIVE CASH MANAGEMENT

3.1 Cash Collection

All monies due to the municipality must be collected as soon as possible, either on or immediately after due date, and banked on a daily basis.

The respective responsibilities of the Chief Financial Officer and other heads of departments in this regard is defined in a code of financial practice approved by the Municipal Manager and the Chief Financial Officer, and this code of practice is attached as Annexure II to this policy.

The unremitting support of and commitment to the municipality's credit control policy, both by the council and the municipality's officials, is an integral part of proper cash collections, and by approving the present policy the council pledges itself to such support and commitment.

3.2 Payments to Creditors

The Chief Financial Officer shall ensure that all tenders and quotations invited by and contracts entered into by the municipality stipulate payment terms favorable to the municipality, that is, payment to fall due not sooner than the conclusion of the month following the month in which a particular service is rendered to or goods are received by the municipality. This rule shall be departed from only where there are financial incentives for the municipality to effect earlier payment, and any such departure shall be approved by the Chief Financial Officer before any payment is made.

In the case of small, micro and medium enterprises, where such a policy may cause financial hardship to the contractor, payment may be effected at the conclusion of the month during which the service is rendered or within fourteen days of the date of such service being rendered, whichever is the later. Any such early payment shall be approved by the Chief Financial Officer before any payment is made.

Notwithstanding the foregoing policy directives, the Chief Financial Officer shall make full use of any extended terms of payment offered by suppliers and not settle any accounts earlier than such extended due date, except if

the Chief Financial Officer determines that there are financial incentives for the municipality to do so.

3.3 Management of Inventory

Each Head of Department and the Stores Manager shall ensure that such department's / municipality's inventory levels do not exceed normal operational requirements in the case of items which are not readily available from suppliers, and emergency requirements in the case of items which are readily available from suppliers.

Each Head of Department and the Stores Manager shall periodically review the levels of inventory held in his/her department and at the Main Stores respectively and shall ensure that any surplus items be made available to the Chief Financial Officer for sale at a public auction or by other means of disposal, as provided for in the municipality's supply chain management policy.

3.4 Cash Management Programme

The Chief Financial Officer shall prepare an annual estimate of the municipality's cash flows divided into calendar months, and shall update this estimate on a monthly basis. The estimate shall indicate when and for what periods and amounts surplus revenues may be invested, when and for what amounts investments will have to be liquidated, and when – if applicable – either long-term or short-term debt must be incurred. Heads of Department shall in this regard furnish the Chief Financial Officer with all such information as is required, timeously and in the format indicated.

The Chief Financial Officer shall report to the Finance Portfolio Committee on a monthly basis and/or to a council meeting when required. Such a report shall indicate any movements in respect of the municipality's investments, together with appropriate details of the investments concerned.

4. INVESTMENT ETHICS

The Chief Financial Officer shall be responsible for investing the surplus revenues of the municipality, and shall manage such investments in consultation with the Municipal Manager, and in compliance with any policy directives formulated by the council and prescriptions made by the Minister of Finance.

In making such investments the Chief Financial Officer, shall at all times have only the best considerations of the municipality in mind, and, except for the outcome of the consultation process with the Municipal Manager, shall not accede to any influence by or interference from councillors, investment agents or institutions or any other outside parties.

Neither the Chief Financial Officer nor the Municipal Manager may accept any gift, other than an item having such negligible value that it cannot possibly be construed as anything other than a token of goodwill by the donor, from any investment agent or institution or any party with which the municipality has made or may potentially make an investment.

5. INVESTMENT PRINCIPLES

5.1 Limiting Exposure

Where large sums of money are available for investment the Chief Financial Officer shall ensure that they are invested with more than one institution, wherever practicable, in order to limit the risk exposure of the municipality. The Chief Financial Officer shall further ensure that, as far as it is practically and legally possible, the municipality's investments are so distributed that more than one investment category is covered (that is, call, money market and fixed deposits).

5.2 Risk and Return

Although the objective of the Chief Financial Officer in making investments on behalf of the municipality shall always be to obtain the best interest rate on offer, this consideration must be tempered by the degree of risk involved in regard to both the financial institution and the investment instrument concerned. No investment shall be made with an institution where the degree of risk is perceived

to be higher than the average risk associated with investment institutions. Deposits shall be made only with registered deposit-taking institutions.

The preservation and safety of investments is the foremost objective of the investment program. To attain this objective, diversification is required to ensure that the Chief Financial Officer prudently manages market, interest rate and credit risk.

5.3 Registered Financial Institutions

Investments must only be made in accordance of the regulations as in section 6 of the Government Gazette Notice No. R308 dated 1 April 2005. The municipality must ensure that it places investments only with credit worthy institutions and regularly monitors its investment portfolio.

5.4 Credit Rating for Investments

Investments, both short-term and long-term, can only be made with institutions having a minimum credit rating of A.

5.5 Liquidity

The Investment portfolio must remain sufficiently liquid to enable the Municipality to meet all operating requirements that may be reasonably anticipated.

5.6 Return on Investments

The investments shall be structured to obtain the optimal possible returns, taking into account investment risk constraints, cash flow needs and the parameters determined for authorised investments.

5.7 Prudence

Investment shall be made with care, skill, prudence and diligence. The approach must be that of a prudent person acting in a like capacity and familiar with investment matters would use in the investment of funds of like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Municipality. The standard of prudence to be used by the Investment officials shall be the "prudent person" standard and shall be applied in the context of

managing an overall Investment portfolio. Investment officials are required to :

- i. adhere to written procedures and these guidelines
- ii. exercise due diligence
- iii. prepare all reports timeously
- iv. exercise strict compliance with all legislation

5.8 Speculation

Investments may not be undertaken with a view to speculation.

5.9 Ownership

All investments must be made in the name of Alfred Duma Local Municipality.

5.10 Application

The Municipal Investment Regulations which forms part of the Municipal Finance Management Act, No. 56 of 2003 is applicable to all Municipalities and Municipal Entities and is effective from 1 March 2005.

5.11 Payment of Commission

As a standard practice, investments are only made directly with the Banks and not through intermediaries. The payment of any commission is not acceptable. Funds on call, being short term and therefore liquid investments earn lower interest rates and are kept to minimum levels.

Every financial institution with which the municipality makes an investment must issue a certificate to the Chief Financial Officer in regard to such investment, stating that such financial institution has not paid and will not pay any commission and has not and will not grant any other benefit to any party for obtaining such investment.

5.12 Call Deposits and Fixed Deposits

The Alfred Duma Local Municipality invests funds on call (overnight) to meet its daily operating costs. This type of investment is authorised in terms of the Municipal Investment Regulations, see Annexure B, clause 6. Funds not required

for immediate use are invested for longer periods in accordance with the funding requirements of the Municipality.

Call accounts may also be maintained for specific funds.

Before making any fixed deposits, the Chief Financial Officer, shall obtain quotations from at least three financial institutions.

Given the volatility of the money market, the Chief Financial Officer, shall, whenever necessary, request quotations from the Banks for the amount of funds, and for the term for which the investment must be placed, via e-mail or telephonically, and shall record in an appropriate register the name of the institution, the name of the person contacted, and the relevant terms and rates offered by such institution, as well as any other information which may be relevant (for example, whether the interest is payable monthly or only on maturity, and so forth).

Having obtained the necessary number of quotations, the decision is then made based on the best terms offered and the Bank is identified with whom the investment is to be placed. Taking account of the investment principles contained in this policy, it is customary to accept the best offer received within the exposure limits. The Banks are fully aware that the rate quoted must be their best rate at that time.

The criteria applied by the Chief Financial Officer in placing funds are the following :-

- (a) Cash requirements of Alfred Duma Local Municipality.
- (b) Interest rate trends.
- (c) Imminent changes in interest rates.
- (d) Risks involved given existing exposure of individual Banks.
- (e) Quoted rates.

The cash forecast caters for the fully estimated inflows and outflows of funds and the information is reviewed by the Chief Financial Officer to best determine the investment or disinvestment of funds.

Once the best investment terms have been identified, written confirmation of the quotation must be immediately obtained (by facsimile, email or any other expedient means).

Any monies paid over to the investing institution in terms of the agreed investment (other than monies paid over in terms of part 7 below) shall be paid over only to such institution itself and not to any agent or third party. Once the investment has been made, the Chief Financial Officer shall ensure that the municipality receives a properly documented receipt or certificate for such investment, issued by the institution concerned in the name of the municipality.

All investments are made via the Electronic Funds Transfer (EFT) and the relevant documentation is transmitted by facsimile or e-mail to the individual Banks confirming investment or disinvestment transactions.

5.13 Restriction on Tenure of Investments

No investment with a tenure exceeding twelve months shall be made without the approval of the Council.

5.14 Prohibited Investment Instruments and Practices

There are a considerable number of investment instruments which the Municipality does not utilise as there is no enabling legislation which permits such investments. Some of the prohibited investments are as follows : -

- (a) Investment in Listed Shares (Equities). The amount invested fluctuates with changes in the value of the shares in the portfolio. Although the returns are higher than most other investment options, it may be difficult to realise the investment at the time funds are required and the risk of capital loss is considerable. Additionally in depth knowledge of the equity market is required.
- (b) Borrowing for investment purposes is prohibited. At any given time, with a conventionally shaped interest yield curve, long term interest rates will exceed those for the short term. In the vast majority of instances therefore funds will need to be borrowed at an interest rate which includes the lending Bank's risk and their premiums exceeding the likely short-term investment returns.

- (c) The use of derivative instruments. The safety of principal is not assured. A high degree of expertise is required to utilise derivative instruments effectively, and there is a risk of losing the principal amount.
- (d) Investment in Market Linked; Endowment Policies. The safety of principal is not assured as the principal will fluctuate with changes in the value of the investments underlying the policy. The funds are tied up for the duration of the investment and are illiquid.
- (e) Investments denominated in foreign currencies are prohibited, however it is possible to make an investment if the investment is denominated in Rand and is not indexed to, or affected by fluctuations in the value of the Rand against any foreign currency in terms of clause 7 of the Municipal Investment Regulations.

6. CONTROL OVER INVESTMENTS

The Chief Financial Officer shall ensure that proper records are kept of all investments made by the municipality. Such records shall indicate the date on which the investment is made, the institution with which the monies are invested, the amount of the investment, the interest rate applicable, and the maturity date. If the investment is liquidated at a date other than the maturity date, such date shall be indicated.

The Chief Financial Officer shall ensure that all interest and capital properly due to the municipality are timeously received, and shall take appropriate steps or cause such appropriate steps to be taken if interest or capital is not fully or timeously received.

The Chief Financial Officer shall ensure that all investment documents and certificates are properly secured in a fireproof safe with segregated control over the access to such safe, or are otherwise lodged for safekeeping with the municipality's bankers, if such certificates are issued.

7. OTHER EXTERNAL INVESTMENTS

From time to time it may be in the best interests of the municipality to make longer-term investments in secure stock issued by the national government or any other reputable parastatal or institution, or by another reputable municipality. In such cases the Chief Financial Officer, must be guided by the best rates of interest pertaining to the specific type of investment, which the municipality requires, and to the best and most secure instrument available at the time.

No investment with a tenure exceeding twelve months shall be made without the prior approval of the Council, and without guidance having been sought from the municipality's bankers or other credible investment advisers on the security and financial implications of the investment concerned.

8. BANKING ARRANGEMENTS

The Municipal Manager is responsible for the management of the municipality's bank accounts, but may delegate this function to the Chief Financial Officer. The Chief Financial Officer is authorised at all times to approve electronic transfers / payments, to sign cheques and any other documentation associated with the management of such accounts. The Municipal Manager, in consultation with the Chief Financial Officer, is authorised to appoint three or more additional signatories in respect of such accounts, and to amend such appointments from time to time.

In compliance with the requirements of good governance, the Chief Financial Officer shall open a bank account for ordinary operating purposes, and shall further open additional accounts as required.

Unless there are compelling reasons to do otherwise, all the municipality's bank accounts shall be maintained with the same banking institution to ensure pooling of balances for purposes of determining the best interest payable to the municipality.

Tenders may be invited if the Municipal Manager, in consultation with the Chief Financial Officer, is of the opinion that the services offered by the municipality's current bankers are materially defective, or not cost-effective, and the Council, agrees to the invitation of such tenders. The Municipal Manager shall therefore invite tenders for the municipality's bank accounts.

9. RAISING OF DEBT

The Municipal Manager is responsible for the raising of debt, but may delegate this function to the Chief Financial Officer, who shall then manage this responsibility in consultation with the Municipal Manager. All debt shall be raised in strict compliance with the requirements of the Municipal Finance Management Act 2003, and only with the prior approval of the council.

Long-term debt shall be raised only to the extent that such debt is provided for as a source of necessary finance in the capital component of the approved annual budget or adjustments budget.

Short-term debt shall be raised only when it is unavoidable to do so in terms of cash requirements, whether for the capital or operating budgets or to settle any other obligations, and provided the need for such short-term debt, both as to extent and duration, is clearly indicated in the cash flow estimates prepared by the Chief Financial Officer. Short-term debt shall be raised only to anticipate a certain long-term debt agreement or a certain inflow of operating revenues.

10. INTEREST ON INVESTMENTS

Call Accounts

The interest accrued on the municipality's call accounts shall be recorded in the municipality's operating account as ordinary operating revenues, unless a call account is utilized for a specific purpose and requires that the interest accrued remains in such call account.

Fixed Deposits

The interest accrued on all the municipality's fixed deposit investments shall, in compliance with the requirements of generally recognised accounting practice, be recorded in the first instance in the municipality's operating account as ordinary operating revenues, and shall thereafter be appropriated, at the end of the year, to the fund or account in respect of which such an investment was made.

11. MONTHLY CASH FORECAST

The Monthly Cash Forecast spreadsheet has been designed to reflect the monthly movement of income and expenditure taking cognisance of the opening cash balances and finishing with the closing cash balances. The actual call account and current account balances are compared to the budgeted balances. Material variances are investigated and explanation of the large variances are reported monthly to Management. The Monthly Cash Forecast is a micro forecast and it is linked to the Annual Cash Forecast, and is informed by the Investment Plan.

The following steps are performed by the Accountant: Expenditure in producing the Monthly Cash Forecast spreadsheets.

- a) Analyse the Annual Cash Flow Forecast based on operating estimates and capital estimates.
- b) For the month concerned extract the closing call account balance from the Call Rate Sheet and the current account balance from the daily Cash Forecast.
- c) Provide for Abnormal income
 1. EasyPay receipts and (daily including Weekends)
 2. Prepaid Sales from Vendors (2 times per month)
 3. Equitable Share (3 times per annum July, November and February)
 4. Bulk Electricity (last week of each month)
 5. Peaks in income at the beginning of the month and at the end of the month are also considered.
 6. Grants/subsidies as reflected on the Annual Cash Forecast.
 7. Investment maturities.
- d) Normal income after adjustment of abnormal income is apportioned accordingly, taking into account the total income received as reflected on the Annual Cash Forecast.
- e) Changes in trends pertaining to income received are factored into future Monthly Forecasts.

- f) Provide for Abnormal Expenditure
 - 1. Provide for Eskom, 31st of each month.
 - 2. Salaries on the last working day of each month.
 - 3. Staff Benefits payments: Medical Aid (31st) PAYE (4th), UIF (4th), Skills Development Levy (4th), Pension Fund (31st) and Housing Bonds (31st).
 - 4. Provide for VAT payment, 31st of each month.
 - 5. Other expenses, Telkom, Fuel, Security, Contract payments
 - 6. Loan repayments as per Accountant's schedule.
- g) Normal expenditure, after adjusting for abnormal expenditure is apportioned accordingly, taking into account the total expenditure as reflected on the Annual Cash Forecast.
- h) Changes in trends pertaining to expenditure are factored into future Monthly Forecasts.
- i) Capital expenditure and funding receipts are also provided on the Monthly Cash Forecast. Historical capital expenditure patterns are used. Adjustments are also made for the payments profile for larger capital contracts in progress.
- j) After budgeted figures are accounted for, the actual figures for balances on call and current account are entered on the spreadsheet.
- k) Variances are reflected and explained.

12. INTERNAL CONTROL PROCEDURES

The internal control procedures involves Internal Audit and the Auditor-General reviewing and testing the system of Investments on a regular basis. In order to prevent losses arising from fraud, misrepresentations, error, conflict of interest or imprudent action, a system of internal controls governs the administration and management of the Investment portfolio.

Controls deemed most important include : -

- (a) Control of collusion, separation of duties.
- (b) Custodial safekeeping.
- (c) Rotation of duties.
- (d) Written confirmation of telephone and e-mail transactions.
- (e) Minimising the number of authorised Investment officials.
- (f) Checking and verification by senior officials of all investment transactions.
- (g) Documentation of transactions and strategies.
- (h) Code of ethics and standards.
- (i) Strict adherence to Investment Policy.
- (j) Limits placed on investments by the various officials.
- (k) Procedure manuals.
- (l) Electronic Funds Transfer limits and a detailed procedure manual for the system.
- (m) Monthly reporting to relevant Committees and Council of all investments.

13. REPORTING AND MONITORING REQUIREMENTS

Regular reporting mechanisms are in place in order to assess the performance of the investment portfolio and to ensure that the investments comply with policy objectives, guidelines, applicable laws and regulations –

Daily activities :-

- The current account bank balances and investment cash forecast is reviewed by the Chief Financial Officer.
- The Accountant Expenditure monitors the prevailing market conditions, economic developments and anticipated investment conditions and any other activities warranting possible revisions of current or planned investment options in order to inform decision making.
- The current account bank balances and investment activities is e-mailed to the Chief Financial Officer and Municipal Manager.
- All investments are made via Electronic Funds Transfer (EFT) with very stringent controls.

Weekly activities :-

- The cash balances report is submitted to the Chief Financial Officer and Municipal Manager.

Monthly activities :-

- All functions and tasks carried out by the Accountant Expenditure in terms of investments is reviewed by the Deputy Chief Financial Officer, the Manager Financial Reporting and Expenditure and the Assistant Manager Expenditure.
- The Investment portfolio and cash balances report are submitted to the Chief Financial Officer.
- Review of Investment Plan.
- Reconciliation of bank accounts.
- Accounting transactions for purchase and sale of investments.
- Reconciliation of all interest due.
- Comparison of the cash flow forecast to actual.
- A report on the Investment portfolio is furnished to the Executive Committee, within ten working days of each month.

Quarterly activities :-

- Analysis of Banks BA900 to determine exposure limits of banks
- Report to Executive Committee on investments made.

Annual activities :-

- Preparation of the cash flow forecast.
- Preparation of the annual budget.
- Preparation of Annual Financial Statements.
- Regular reviews by Internal Audit and the Auditor-General.
- Review of Investment Policy.
- Prior to year end details of bank accounts submitted to Auditor-General and National Treasury.

ANNEXURE A

1. Local Government Municipal Systems Act 32 of 2000

Section (60) (2), as amended:

The council may only delegate to the Municipal Manager the power to make decisions on investments on behalf of the Municipality within the municipality's investment policy contemplated in section 13(2) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

2. Paraphrase of Requirements of Municipal Finance Management Act No. 56 of 2003

Note: In terms of Section 60(2) of the Municipal Systems Act No. 32 of 2000 the council may delegate the authority to take decisions on making investments on behalf of the municipality only to the Municipal Manager.

SECTION 7: OPENING OF BANK ACCOUNTS

Every municipality must open and maintain at least one bank account. This bank account must be in the name of the municipality, and all monies received by the municipality must be paid into this bank account or accounts, promptly and in accordance with any requirements that may be prescribed.

A municipality may not open a bank account:

- otherwise than in the name of the municipality;
- abroad; or
- with an institution not registered as a bank in terms of the Banks Act 1990.

Money may be withdrawn from the municipality's bank account only in accordance with the requirements of Section 11 of the present Act.

SECTION 8: PRIMARY BANK ACCOUNT

Every municipality must have a primary bank account, and if the municipality has only one bank account that account is its primary bank account. If the municipality has more than one bank account, it must designate one of those bank accounts as its primary bank account.

The following must be paid into the municipality's primary account:

- all allocations to the municipality;
- all income received by the municipality on its investments;
- all income received by the municipality in connection with its interest in any municipal entity;
- all money collected by a municipal entity or other external mechanism on behalf of the municipality, and;
- any other monies as may be prescribed.

The Municipal Manager of the municipality must submit to the National Treasury, the Provincial Treasury and the Auditor-General, in writing, the name of the bank where the primary bank account of the municipality is held, and the type and number of the account. If the municipality wants to change its primary bank account, it may do so only after the Municipal Manager has informed the National Treasury and the Auditor-General, in writing, at least 30 days before making such change.

SECTION 9: BANK ACCOUNT DETAILS TO BE SUBMITTED TO PROVINCIAL TREASURIES AND AUDITOR-GENERAL

The Municipal Manager of the municipality must submit to the Provincial Treasury and to the Auditor-General, in writing, within 90 days after the municipality has opened a new bank account, the name of the bank where the account has been opened, and the type and number of the account; and annually, before the start of each financial year, the name of each bank where the municipality holds a bank account, and the type and number of each account.

SECTION 10: CONTROL OF MUNICIPAL BANK ACCOUNTS

The Municipal Manager of the municipality must administer the entire municipality's bank accounts, is accountable to the municipal council for the municipality's bank accounts, and must enforce compliance with Sections 7, 8 and 11 of the present Act.

The Municipal Manager may delegate the duties referred to above only to the municipality's Chief Financial Officer.

SECTION 11: WITHDRAWALS FROM MUNICIPAL BANK ACCOUNTS

Only the Municipal Manager or the Chief Financial Officer of the municipality (presumably where this power has been appropriately delegated), or any other senior financial official of the municipality acting on the written authority of the Municipal Manager, may withdraw money or authorise the withdrawal of money from any of the municipality's bank accounts. Such withdrawals may be made only to:

- defray expenditure appropriated in terms of an approved budget;
- defray expenditure authorised in terms of Section 26(4) (this Section deals with situations in which the budget was not timeously approved, and the province has been compelled to intervene);
- defray unforeseeable and unavoidable expenditure authorised in terms of Section 29(1);
- in the case of a bank account opened in terms of Section 12, make payments from the account in accordance with Section 12(4);
- pay over to a person or organ of state money received by the municipality on behalf of such person or organ of state, including money collected by the municipality on behalf of such person or organ of state by agreement, or any insurance or other payments received by the municipality for such person or organ of state;
- refund money incorrectly paid into a bank account;
- refund guarantees, sureties and security deposits;
- make investments for cash management purposes in accordance with Section 13;
- defray increased expenditure in terms of Section 31; or
- for such other purposes as may be prescribed.

(Note that Section 11(1) does not expressly provide for the withdrawal of monies to pay creditors, where the relevant obligations arose in terms of the previous budget; to repay loans; or to repay consumer deposits).

Any authorisation to a senior financial official to withdraw money or to authorize the withdrawal of money from a bank account must be in accordance with the framework as may be prescribed. The Municipal Manager may not authorise any official other than the Chief Financial Officer to withdraw money or to authorise the withdrawal of money from the municipality's primary bank account if the municipality has a primary bank account which is separate from its other bank accounts.

SECTION 12: RELIEF, CHARITABLE, TRUST OR OTHER FUNDS

No political structure or office bearer of the municipality may set up a relief, charitable, trust or other fund of whatever description, except in the name of the municipality. Only the Municipal Manager may be the accounting officer of any such fund.

A municipality may open a separate bank account in the name of the municipality for the purpose of such relief, charitable, trust or other fund. Money received by the municipality for the purpose of such fund must be paid into the bank account of the municipality, or if a separate bank account has been opened for such fund, into that account.

Money in a separate account opened for such fund may be withdrawn from the account without appropriation in terms of the approved budget, but only by or on the written authority of the Municipal Manager, acting in accordance with decisions of the council, and for the purposes for which, and subject to any conditions on which, the fund was established or the money in the fund was donated.

SECTION 13: CASH MANAGEMENT AND INVESTMENTS

The Minister, acting with the concurrence of the cabinet member responsible for local government, may prescribe a framework within which municipalities must conduct their cash management and investments, and invest money not immediately required.

A municipality must establish an appropriate and effective cash management and investment policy in accordance with any framework that may be so prescribed.

A bank where the municipality at the end of the financial year holds a bank account, or held a bank account at any time during such financial year, must, within 30 days after the end of such financial year, notify the Auditor-General, in writing, of such bank account, indicating the type and number of the account, and the opening and closing balances of that account in that financial year. The bank must also promptly disclose any information regarding the account when so requested by the National Treasury or the Auditor-General.

A bank, insurance company or other financial institution which at the end of the financial year holds, or at any time during the financial year held, an investment for the municipality, must, within 30 days after the end of that financial year, notify the Auditor-General, in writing, of that investment, including the opening and closing balances of that investment in that financial year. Such institution must also promptly disclose any information regarding the investment when so requested by the National Treasury or the Auditor-General.

SECTION 17: CONTENTS OF ANNUAL BUDGETS AND SUPPORTING DOCUMENTS

The following documents must accompany each tabled draft annual budget (inter alia):

- a projection of cash flows for the budget year.
- particulars of the municipality's investments.

SECTION 22: PUBLICATION OF ANNUAL BUDGETS

The Municipal Manager must make public, immediately after a draft annual budget is tabled, the budget itself and all the prescribed supporting documents, and invite comments from the local community in connection with such budget (and documents).

SECTION 36: NATIONAL AND PROVINCIAL ALLOCATIONS TO MUNICIPALITIES

In order to provide predictability and certainty about the sources and levels of intergovernmental funding for municipalities, the accounting officer of a national or provincial department and the accounting authority of a national or provincial public entity responsible for the transfer of any proposed allocations to a municipality, must by no later than 20 January of each year notify the National Treasury or the relevant Provincial Treasury as may be appropriate, of all proposed allocations and the projected amounts of those allocations to be transferred to each municipality during each of the next three financial years.

The Minister or the MEC responsible for finance in the province must, when tabling the national annual budget in the National Assembly or the provincial annual budget in the provincial legislature, make public particulars of any allocations due to each municipality in terms of that budget, including the amount to be transferred to the municipality during each of the next three financial years.

SECTION 37: PROMOTION OF CO-OPERATIVE GOVERNMENT BY MUNICIPALITIES

In order to enable municipalities to include allocations from other municipalities in their budgets and to plan effectively for the spending of such allocations, the Municipal Manager of every municipality responsible for the transfer of any allocation to another municipality, must, by no later than 120 days before the start of its budget year, notify the receiving municipality of the projected amount of any allocation proposed to be transferred to that municipality during each of the next three financial years.

SECTION 45: SHORT-TERM DEBT

The municipality may incur short-term debt only in accordance with and subject to the provisions of the present Act, and only when necessary to bridge shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic income to be received within that financial year; or to bridge capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

The council may approve a short-term debt transaction individually, or may approve an agreement with a lender for a short-term credit facility to be accessed as and when required, including a line of credit or bank overdraft facility, provided that the credit limit must be specified in the resolution of the council; the terms of the agreement, including the credit limit, may be changed only by a resolution of the council; and if the council approves a credit facility limited to emergency use, the Municipal Manager must notify the council in writing as soon as practicable of the amount, duration and cost of any debt incurred in terms of such a credit facility, as well as the options available for repaying such debt.

The municipality must pay off short-term debt within the financial year in which it was incurred, and may not renew or refinance short-term debt, whether its own debt or that of any municipal entity, where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.

SECTION 46: LONG-TERM DEBT

A municipality may incur long-term debt only in accordance with and subject to any applicable provisions of the present Act, and only for the purpose of capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government as set out in Section 152 of the Constitution; or refinancing existing long-term debt subject to the requirements of Section 46(5).

SECTION 47: CONDITIONS APPLYING TO BOTH SHORT-TERM AND LONG-TERM DEBT

The municipality may incur debt only if the debt is denominated in rand and is not indexed to, or affected by, fluctuations in the value of the rand against any foreign currency.

SECTION 64: REVENUE MANAGEMENT (EXCERPTS)

The Municipal Manager of the municipality is responsible for the management of the revenue of the municipality. The Municipal Manager, must, among other things, take all reasonable steps to ensure that all money received is promptly deposited in accordance with the requirements of the present Act into the municipality's primary and other bank accounts.

The Municipal Manager must also ensure that all revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled on at least a weekly basis.

The Municipal Manager must take all reasonable steps to ensure that any funds collected by the municipality on behalf of another organ of state are transferred to that organ of state at least on a weekly basis, and that such funds are not used for purposes of the municipality.

SECTION 65: EXPENDITURE MANAGEMENT (EXCERPTS)

The Municipal Manager of the municipality is responsible for the management of the expenditure of the municipality.

The Municipal Manager must take all reasonable steps to ensure, among other things, that payments made by the municipality are made direct to the person to whom they are due, unless agreed otherwise for reasons as may be prescribed, and either electronically or by way of non-transferable cheques, provided that cash payments and payments by way of cash cheques may be made for exceptional reasons only, and only up to a prescribed limit.

The Municipal Manager must also ensure that all money owing by the municipality is paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure.

The Municipal Manager must further ensure that the municipality's available working capital is managed effectively and economically in terms of the prescribed cash management and investment framework.

ANNEXURE B**GOVERNMENT GAZETTE, 1 APRIL 2005****GOVERNMENT NOTICES****NATIONAL TREASURY****No. R.308****1 April 2005****LOCAL GOVERNMENT : MUNICIPAL FINANCE MANAGEMENT ACT 2003
MUNICIPAL INVESTMENT REGULATIONS**

The Minister of Finance, acting with the concurrence of the Minister for Provincial and Local Government, has in terms of Section 168, read with Section 13 and 99 (2)(g), of the Local Government : Municipal Finance Management Act, 2003 (Act No. 56 of 2003), made the regulations as set out in the Schedule.

SCHEDULE**Definitions**

1. In these regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and "Act" means the Local Government : Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

"investee" means an institution with which an investment is placed, or its agent;
"investment manager" means a natural person or legal entity that is a portfolio manager registered in terms of the Financial Markets Control Act, 1989 (Act No. 55 of 1989) and Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), contracted by a municipality or municipal entity to :-

- (a) advise it on investments;
- (b) manage investments on its behalf; or
- (c) advise it on investments and manage investments on its behalf.

“trust money” means money held in trust on behalf of third parties in a trust contemplated in terms of Section 12 of the Act.

Application

2. (1) These regulations apply to :-
 - (a) all municipalities
 - (b) all municipal entities; and
 - (c) all investment managers acting on behalf of, or assisting, a municipality or municipal entity in making or managing investments.
- (2) These regulations do not apply :-
 - (a) to a pension or provident fund registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), or any subsequent legislation; or
 - (b) in respect of trust money administered by a municipality or municipal entity where a trust deed prescribes how the trust money is to be invested.
- (3) Municipal pension or provident funds which do not comply with sub-regulation (2)(a) are exempted from these regulations until 30 June 2005.
- (4) The accounting officer of a municipality and municipal entity must provide the National Treasury with details of all pension or provident funds that do not comply with sub-regulation (2)(a) within 30 days of promulgation of these regulations.

Adoption of Investment Policies

3. (1) The investment policy to be established by a municipality in terms of Section 13(2) of the Act, must be :-
 - (a) adopted by the council of the municipality; and
 - (b) consistent with the Act and these regulations.
- (2) The board of Directors of a municipal entity must adopt an investment policy for the entity consistent with the Act and these regulations.

- (3) All investments made by a municipality or municipal entity, or by an investment manager on behalf of a municipality or municipal entity, must be in accordance with the investment policy of the municipality or entity and these regulations.

Core elements of Investment Policies

4. The investment policy of a municipality or municipal entity must :-

- (a) be in writing;
- (b) give effect to these regulations; and
- (c) set out :-
 - (i) the scope of the policy;
 - (ii) the objectives of the policy, with due regard to the provisions of these regulations relating to :-
 - (aa) the preservation and safety of investments as the primary aim;
 - (bb) the need for investment diversification; and
 - (cc) the liquidity needs of the municipality or municipal entity;
 - (iii) a minimum acceptable credit rating for investments, including :-
 - (aa) a list of approved investment types that may be made, subject to regulation 6;
 - (bb) a list of approved institutions where or through which investments may be made, subject to regulation 10;
 - (iv) procedures for the invitation and selection of competitive bids or offers in accordance with Part 1 of Chapter 11 of the Act;
 - (v) measures for ensuring implementation of the policy and internal control over investments made;
 - (vi) procedures for reporting on and monitoring of all investments made, subject to regulation 9;
 - (vii) procedures for benchmarking and performance evaluation;
 - (viii) the assignment of roles and functions, including any delegation of decision-making powers;
 - (i) if investment managers are to be used, conditions for their use, including their liability in the event of non-compliance with the policy or these regulations; and
 - (ii) procedures for the annual review of the policy.

Standard of care to be exercised when making Investments

5. Investments by a municipality or municipal entity, or by an investment manager on behalf of a municipality or entity :-
 - a) must be made with such judgement and care, under the prevailing circumstances, as a person of prudence, discretion and intelligence would exercise in the management of that persons' own affairs;
 - b) may not be made for speculation but must be a genuine investment; and
 - c) must in the first instance be made with primary regard being to the probable safety of the investment, in the second instance to the liquidity needs of the municipality or municipal entity and lastly to the probable income derived from the investment.

Permitted Investments

6. A municipality or municipal entity may invest funds only in any of the following investment types :-
 - (a) securities issued by the national government;
 - (b) listed corporate bonds with an investment grade rating from a nationally or internationally recognised credit rating agency;
 - (c) deposits with banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990);
 - (d) deposits with the Public Investment Commissioners as contemplated by the Public Investment Commissioners Act, 1984 (Act No. 45 of 1984);
 - (e) deposits with the Corporation for Public Deposits as contemplated by the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984);
 - (f) banker's acceptance certificates or negotiable certificates of deposit of banks registered in terms of the Banks Act, 1990;
 - (g) guaranteed endowment policies with the intention of establishing a sinking fund;
 - (h) repurchase agreements with banks registered in terms of the Banks Act, 1990;
 - (i) municipal bonds issued by a municipality; and
 - (j) any other investment type as the Minister may identify by regulation in terms of Section 168 of the Act, in consultation with the Financial Services Board.

Investments denominated in foreign currencies prohibited

7. A municipality or municipal entity may make an investment only if the investment is denominated in Rand and is not indexed to, or affected by, fluctuations in the value of the Rand against any foreign currency.

Payment of commission

8. (1) No fee, commission or other reward may be paid to a Councillor or Official of a municipality or to a Director or Official of a municipal entity or to a spouse or close family member of such Councillor, Director or Official in respect of any investment made or referred by a municipality or municipal entity.
- (2) If an investee pays any fee, commission or other reward to an investment manager in respect of any investment made by a municipality or municipal entity, both the investee and the investment manager must declare such payment to the council of the municipality or the board of directors of the municipal entity by way of a certificate disclosing full details of the payment.

Reporting requirements

9. (1) The accounting officer of a municipality or municipal entity must within 10 working days of the end of each month, as part of the Section 71 report required by the Act, submit to the mayor of the municipality or the board of directors of the municipal entity a report describing in accordance with generally recognised accounting practice the investment portfolio of that municipality or municipal entity as at the end of the month.
- (2) The report referred to in sub-regulation (1) must set out at least :-
 - (a) the market value of each investment as at the beginning of the reporting period;
 - (b) any changes to the investment portfolio during the reporting period;
 - (c) the market value of each investment as at the end of the reporting period; and
 - (d) fully accrued interest and yield for the reporting period.

Credit requirements

10. (1) A municipality or municipal entity must take all reasonable and prudent steps consistent with its investment policy and according to the standard of care set out in regulation 5, to ensure that it places its investments with credit worthy institutions.
- (2) A municipality or municipal entity must :-
 - (a) regularly monitor its investment portfolio; and
 - (b) when appropriate liquidate an investment that no longer has the minimum acceptable credit rating as specified in its investment policy.

Portfolio diversification

11. A municipality or municipal entity must take all reasonable and prudent steps, consistent with its investment policy and according to the standard of care prescribed in regulation 5, to diversify its investment portfolio across institutions, types of investment and investment maturities.

Miscellaneous Provisions

12. (1) The responsibility and risk arising from any investment transaction vests in the relevant municipality or municipal entity.
- (2) All investments made by a municipality or municipal entity must be in the name of that municipality or municipal entity.
- (3) A municipality or municipal entity may not borrow money for the purpose of investment.

Existing Investments

13. Nothing in these regulations compels a municipality or municipal entity to liquidate an investment which existed when these regulations took effect merely because such investment does not comply with a provision of these regulations.

Commencement

These regulations took effect on 1 April 2005.

ANNEXURE C

CODE OF PRACTICE IN REGARD TO PAYMENTS, REVENUE COLLECTION AND STORES

1. STORES ADMINISTRATION

The Chief Financial Officer shall be responsible for the proper administration of all stores. If sub-stores are established under the control of any head of department, such head of department shall be similarly responsible for the proper administration of such sub-store, and in doing so shall comply with the stock level policies as determined from time to time by the Chief Financial Officer, acting in consultation with the head of department concerned. No sub-store may be established without the prior written consent of the Chief Financial Officer.

2. CONTRACT MANAGEMENT

Within such general buying and related procedures as the Chief Financial Officer shall from time to time determine, and further within the confines of any relevant legislation and of such rules and procedures as may be determined by the council:

- all buying contracts shall be administered by the Chief Financial Officer, and all payments relating to such contracts shall be authorised by the Chief Financial Officer or the relevant departmental head; and
- all other contracts, including building, engineering and other civil contracts shall be administered by the relevant departmental head, and all payments relating to such contracts shall be authorised by such head of department in accordance with the provisions of Section 3 below. The departmental head concerned shall ensure that all payment certificates in regard to contracts are properly examined and are correct in all respects - before being submitted to the Chief Financial Officer for payment.

3. PAYMENTS

- 3.1 All payments, other than petty cash disbursements, shall be made through the municipality's bank account(s).

- 3.2 The Chief Financial Officer shall draw all cheques on this account, and shall, in consultation with the Municipal Manager and with due regard to the council's policy on banking and investments, determine the rules and procedures relating to the signing of cheques, and from time to time jointly with the Municipal Manager decide on appropriate signatories.
- 3.3 All requests for payments of whatever nature shall be submitted on payment vouchers, the format of which shall be determined by the Chief Financial Officer. Such vouchers shall be authorised in terms of such rules and procedures as are determined from time to time by the Chief Financial Officer.
- 3.4 The maximum amount and nature of petty disbursements, where not covered by the general buying procedures referred to in Section 2, shall be generally determined from time to time by the Chief Financial Officer. No cash float shall be operated without the authority of the Chief Financial Officer, who may prescribe such procedures relevant to the management of such float as are considered necessary.
- 3.5 The Chief Financial Officer shall be responsible for the payment of all salaries and remuneration benefits to employees and councillors, and for the determination of the payment system to be used.

4. REVENUE AND CASH COLLECTION

- 4.1 Every head of department responsible for revenue collection shall be responsible for the collection of all monies falling within the ambit and area of his or her designated functions.
- 4.2 The Chief Financial Officer shall ensure that all revenues are properly accounted for.
- 4.3 The collection of all arrear revenues and the control of arrear accounts shall be co-ordinated by the Chief Financial Officer in terms of any policies determined by the council. If it is clear that any revenues are not recovered or likely to be recovered after the necessary steps have been taken, the Chief Financial Officer shall report the matter adequately and timeously to council.
- 4.4 The Chief Financial Officer shall ensure that adequate provision is maintained to cover the writing off of irrecoverable revenues, having

due regard to the council's policy on Customer Care, Credit Control and Debt Collection.

5. BANKING OF RECEIPTS

- 5.1 Guidelines and procedures for the banking of cheques and other receipts shall, if necessary, be determined from time to time by the Chief Financial Officer.
- 5.2 Where applicable, every departmental head responsible for revenue collection shall ensure that all revenues are banked daily with the municipality's banker(s).

6. UNIDENTIFIED DEPOSITS

6.1 Municipal Bank Account Deposits, Direct Transfers and Electronic Banking

- Identify all the direct credits on the bank statement, such as direct deposits by ratepayers, consumers and levy payers, subsidies and grants paid by National and Provincial governments, interest on investments and miscellaneous credits. Process these credits by capturing to the respective votes on the system.
- Identify full details of these credits timely to avoid having to account for these credits in the Unidentified Deposits Account;
- Record all unidentified credits (deposits) in a suitable register to facilitate future claims against the amount and follow up; and
- Balance the unidentified deposits register to the Unidentified Deposits Account in the general ledger on a monthly basis.

6.2 Direct Bank Payments

Direct payments such as direct deposits / bank transfers to the municipality's bank account are received without proper reference and the origin of the payment cannot always be allocated.

6.3 Receipts and Clearing of Accounts

All receipts must be correctly allocated to the relevant debtors account and furthermore the amount must be correctly allocated to the correct services paid for.

The payee cannot be identified when there is no reference against the deposit when it appears on the bank statement. These deposits have to be identified and captured into the receipting system to ensure that debtors' accounts are credited. Direct deposits/bank transfers to the municipality's bank account have to be accompanied by identification (reference) of the party making the deposit/ transfer.

6.4 Procedures Regarding Unidentified Deposits

Any unknown deposits will be temporarily posted to the Creditors Account – Unidentified Deposits. These amounts must be traced to deposits or remittances and must be followed up by contacting the payee or bank where applicable, to verify for what or whom the payment was received.

Unallocated deposits in the Unidentified Deposits Account should be traced as to its origin, the details of the depositor and journalised to the correct accounts. Debtors / ratepayers are notified and requested to include account numbers on deposit slips when paying by internet banking and specific reference when payment is made to ensure that the unidentified deposits reduces.

When deposits are received without adequate supporting documentation or explanation, the amounts are posted to the Unidentified Deposits Account and it is the responsibility of employees to investigate and clear each item and the following procedures are followed:

- All unidentified credits (receipts) should be recorded in a suitable register to facilitate future claims against the amount and followed up; and
- Balance the unidentified deposits register to the Unidentified Deposits Account in the General Ledger on a monthly basis.

These accounts should be monitored and reconciled on a monthly basis. It should be manageable to reconcile and keep these accounts up to date each month, once long outstanding items have been cleared and correctly allocated.

After a period of 6 (six) months when no claims are made or the origin of the deposit is still unknown / unidentified, the unknown deposit as

posted in the Unidentified Deposit Account will be journalised to the Sundries Revenue Account.

A report must be submitted on a regular basis to council with regard to unidentified deposits that have been identified and allocated accordingly and those deposits that have been transferred to the Sundries Revenue Account.